

Cum

B.B. 82
931

LETTERS

OF THE

GHOST OF ALFRED,

ADDRESSED TO THE

HON. THOMAS ERSKINE,

AND THE

HON. CHARLES JAMES FOX,

ON THE OCCASION OF THE STATE TRIALS AT
THE CLOSE OF THE YEAR 1794, AND THE
BEGINNING OF THE YEAR 1795.

By John Bowles?

SECOND EDITION.

“ Fuere tamen cives, qui seque, remque publicam obstinatis
“ animis perditum irent.—Tanta vis morbi, atqui uti tabes
“ plerofque civium animos invarerat.”—*Sall. Bell. Cat.*

London:

PRINTED FOR J. WRIGHT, OPPOSITE OLD BOND-STREET,
PICCADILLY.

1798.

UK
997
Bow

Cx tx
B787
ed2

Rec. June 20, 1904

EDITOR'S ADVERTISEMENT.

THE following Letters were published separately in the True Briton, on the occasion of the State Trials which took place at the close of the year 1794, and at the beginning of the year 1795. The topics to which they relate are among the most important that can occupy the minds of Britons. The Editor feels it a duty which he owes to his Countrymen to recall their attention to the contents of these Letters, which, he is sorry to say, are still as seasonable as when they were written. Their objects are, to preserve

the

the administration of justice in its genuine purity ; to vindicate the principles of English jurisprudence, respecting the crime of High Treason ; and to render the laws what they ought ever to be, " a terror to evil-doers, and a praise and protection to them that do well "—To correct the irregular, indecent, and unconstitutional practices of those advocates, who seem to have taken a general retainer for the domestic, as a correspondent class of senators have for the foreign enemies of the country—To lay open the wiles and artifices of French Revolutionary Treason—To rescue Trial by Jury from the fallacies and false doctrines, by which factious and seditious men seek to render it, not only a shelter for the worst of crimes, but an engine of destruction to the Constitution itself—To expose the sophistry with which a Jacobinical Opposition have insolently contended, and still insolently contend, that because the prisoners tried for High Treason were acquitted, no treasonable conspiracy had existed—And, finally, to exhibit, in just colours,

the unexampled profligacy of the same desperate party, in extolling, patronising, and promoting that horrid and destructive system of Revolution and Anarchy, which has already proved the most dreadful scourge that ever afflicted the human race, and which threatens to lay the whole fabric of civil society in ruins.

That the publication of these Letters may conduce to the maintenance and security of that Constitution, among the founders of which we have ever been proud to reckon the great and venerable character, whose shade here speaks to us with a Warning Voice,

Is the fervent prayer of

May 21, 1798.

THE EDITOR.

The unimpeded progress of the
 party, in entering, penetrating, and
 that should and be the object of
 and character, which has already proved the
 character, though not yet affirmed the
 and which is intended to lay the
 basis of civil society in truth.

That the publication of this
 continues to the maintenance and
 foundation, among the friends of
 have not been placed to receive the
 venerable character, which have been
 with a warning.

Is the future progress of

THE EDITOR

1850, 1851.

LETTER I.

To the Hon. THOMAS ERSKINE.

SIR,

THE prosecutions for High Treason, which have lately been instituted by Government, are likely to form an important Epoch in the History of this Country, and may possibly involve the fate of the Constitution itself.

The conduct of every individual engaged in such momentous proceedings, should be subjected to the nicest scrutiny, but that of so distinguished a member as yourself of the profession to which you belong, must be expected to excite particular attention. Making every allowance for the zeal of an advocate, I am sorry to say that in some respects your conduct during the Trial of HARDY, deserves the severest animadversion. I do not allude merely to the pains you took to divert the minds of the Jury from those parts of the evidence, which most affected the Prisoner, nor upon the dexterity with which you directed their attention to matters that were quite foreign and irrelevant. I do not mean to expose the many unfair advantages you

B

took

took of the unavoidable prolixity and complication of the case, arising out of the nature and extent of the Conspiracy, which it was necessary to unfold—a Conspiracy composed of so many branches, pursued by so many channels, and comprizing, if fully stated, the internal history of the Country for above two years.—Neither shall I animadvert upon your bold undertaking, to convince the Jury that a treasonable Conspiracy had no real existence, although it had been strictly investigated, and solemnly affirmed by both Houses of Parliament; although it had been found by a Grand Jury, (for otherwise they would not have put the Prisoner upon his trial); and although every man in the kingdom believes, that if the plans and designs which were proved to have constituted that Conspiracy, had been effected, the Government would have been totally overthrown. Still less am I disposed to arraign you for endeavouring, as you were undoubtedly intitled to do, to persuade the Jury that the Prisoner was not implicated in this Conspiracy (even if it had existed); although, in his character as Secretary, he was necessarily privy to the whole of the plot, and although he superadded the zeal of a Leader to the activity of an industrious Agent. These considerations all related to matters, in which the effect of such artifices and misrepresentations might be obviated by the good sense

sense of the Jury, aided by the observations of the Counsel for the prosecution, and by the authentic statements of the Judge.

My object in now addressing you, is to point out your gross infringement on the established practice of the Courts upon Trials by Jury; and your equally gross violation of the fundamental principles of the judicial part of the Constitution, by taking upon yourself to lay down the law to the Jury. There is no principle of the Constitution better established or more important than *that* which preserves the important distinction of law and fact, by referring *the Law to the Court, and the Fact to the Jury*. This is the grand safeguard and barrier of the laws of the Realm, and the only security for their due administration. But to have heard you for hours addressing the Jury on the Law, arguing points, quoting cases, and ransacking authorities, one would have thought either that there was no Judge on the Bench, or that you fancied yourself to be there. The absurdity of such conduct is equal to its irregularity. The Judge is placed by the Constitution on the Bench, not as a cypher, nor merely to preserve the forms of proceeding, and to sum up the evidence, but to instruct and direct the Jury, as far as is necessary, in matters of Law. It is from him, and from

him alone, that the Jury are to derive their information of the Law, as far as the Law applies to the case. Entitled to give a general verdict, both of Law and Fact, and not being qualified by their education and habits of life to decide upon questions of law (for a man may make a most excellent Jurymen who has never in his whole life seen a Law-book) Juries are to be guided in that part of their duty which involves the consideration and decision of the Law, solely by the light which they receive from the Bench; and by attending to any other light, they only expose themselves to be misled. Counsel are not entitled to the least credit on this subject. They cannot, indeed, altogether refrain from speaking on the legal part of the case, in bringing the *general* charge home to the Prisoner, or in repelling that charge; but in so doing, instead of going into elaborate arguments, citing cases, discussing abstract principles, and groping for nice and hair-breadth distinctions, (all which is perfectly regular when they are addressing the Judges,) they are bound, as well by the immemorial usage of the profession, as by the reason and decency of the thing, in their addresses to Juries, to refer the validity of any observations they may for that purpose be obliged to make on the Law, to the opinion and correction of the Judge.

It has, therefore, been the constant practice, whenever a distinct point of Law has occurred, which it became necessary to argue, for the Counsel to turn from the Jury, and to address themselves solely to the Bench. And in their observations upon the general case, whenever they have been obliged to touch upon legal topics, they have been accustomed to employ such language as this:—"Gentlemen of the Jury, his Lordship will tell you that this is Law; on this subject I speak entirely under, his correction; and whatever I say on the legal part of the case is entitled to no weight in your minds, unless it be confirmed by the Bench." This is the only regular, correct and decent style, in which a Counsel can say any thing to a Jury on the subject of Law. But you, as if you thought it necessary, in favour of *that* cause for which you seem to have received a general retainer, to violate all established principles and usages, and *this* at a time when they should be more scrupulously adhered to than ever, arrogate to yourself a right to which you have not the least title, and thereby encroach on the province of the Judge by laying down the Law to the Jury. It is to no purpose that you affect to disclaim all respect and authority as to your own opinion, by referring that opinion to the authorities of HALE,

HOLT, COKE, and MANSFIELD, and other venerable luminaries of the Law. Your opinion, however founded and supported, and however valuable to those who may pay for it, is not, *in the eye of the Law*, worth one farthing, nor are any authorities of the least weight *in your mouth*. It is the opinion of the Judge, who presides at the Trial, and whose authority you cannot mould to your purpose, to which alone you are entitled to refer; it is the living Judge, constitutionally placed on the Bench, and presumed to be master of all the ancient authorities, and of all the learning on the subject, who is, by the aid of his study and experience, and under the obligation of his oath, to give the Jury sound directions on the matter of Law. Further assistance the Constitution supposes not necessary to be afforded a Jury, for it has afforded them no other. While to secure to the accused, not merely a fair and impartial Trial, but also the benefit of every advantage that his case can afford, it has imposed on the Judge the additional duty of acting as Counsel for the Prisoner. A better Counsel he cannot have if really innocent. And while the Judges, being independent of the Crown, are superior to all suspicion of undue influence, their declaration of the Law is delivered in so public and open a manner, that it not only involves their own reputation, but

but may be subjected to future revision. On the other hand, the advocate has neither competence, responsibility, nor impartiality. However able, he has no *constitutional* competence, for no trust is reposed in him except by the party for whom he appears. He has no responsibility, except to that party, for whom he engages to do his best. And he cannot be impartial, for by the nature of his situation he is engaged on one side, and, as a noble Judge has observed, *is bound not to be convinced*. He is a Swiss, and fights for pay—and he perfectly exemplifies the Proverb, "*Point d'Argent, point de Suisse*."

That the Council for the Dean of St. Asaph, should fail in respect to the Bench, or attempt to usurp the functions of the Judge, may not, however, excite much surprize. But what shall be said of the Barrister who can so far disgrace his Robe—that Robe too, honourably distinguished by the favour of the Crown—as to promulgate, in his professional character, and in the Tribunals of Justice, the most seditious of doctrines? What shall be said of the Advocate, who, while pleading for a prisoner charged with the grossest violation of the duty of a subject, takes advantage of that freedom of speech which is allowed him for very different purposes, to in-

sult the Majesty of his Sovereign, by declaring that the people have a right to change their Government, and that the Monarch on the Throne, derives his title from the exercise of such a right. Such were the doctrines openly avowed by you on the Trial of Hardy, and never before I will venture to assert, was so gross, so audacious a contempt offered to the administration of Justice.

It would be easy to prove that this your doctrine is false in the *abstract*—that a right in the people to change their Government, is incompatible with the duties of subjects, and the nature of society—that it is repugnant to that allegiance which is the first of social obligations, and the only tie which can hold men together in a Political Union—that it is destructive of that Loyalty to the Prince, which is the parent of all social virtues—which ranks next to Religion—and which affords the best security, not only for the general welfare, but also for the performance of the private duties of mankind, in their various relations to each other—in short, that such a right is expressly denied by all laws, human and divine—that it is repugnant to uniform experience of mankind in all ages, and that it could not be reduced to practice, without producing all those evils which it is the grand object of Society, Government and Laws, to prevent.

But

But to enlarge on these topics is unnecessary. Neither can there be any occasion to refute the audacious and treasonable falsehood, that the Sovereign of these Realms derives his title from the exercise of such a right. The good people of this Country have never exercised, nor thought themselves entitled to exercise, so monstrous a pretension. His Majesty sits on the Throne by the Right of Inheritance, and there never was a legal act done respecting the Crown, which did not recognize that Right. The principles, therefore, which you avowed, were in themselves principles of Anarchy, Disloyalty, and Rebellion. The doctrine which you maintained is the favourite doctrine of the turbulent and disaffected; and that on which they most rely to stir up a spirit of Insurrection and Revolt.—It is the Fountain Head where all the streams of modern sedition and treason take their rise, and whence they rush forth to inundate the world, as they have inundated France, with calamity and blood. To promulgate such a doctrine in any manner is a high treasonable misdemeanour;—but to seize such an occasion for giving currency to the baneful poison---to publish such principles in the face of Justice, solemnly deliberating upon the highest crime known to the Laws, upon a crime which had itself proceeded from the pernicious influence of such doctrines---this was, in malignity and mischief, to surpass

pass the guilt imputed to the prisoner. It was the very quintessence of treason---it was openly to exhort the disaffected to go on---it was to declare to the band of traitors and conspirators that they were right, that they were authorized to pursue their execrable designs, and that they should never want an advocate, who, in defending their lives, would justify their atrocities, defy the laws, and brave the justice of the Country.

Of what value were the professions of love and attachment to the person of your Sovereign, with which you affected to accompany such declarations. Oh insidious love! Oh insulting attachment! Built on no foundation, but caprice—and secured by no sense of duty and allegiance. The love of a people for their Prince, like that of a child for its parent, must be attended with honour, respect, and veneration—with a sense of permanent and indispensable duty—any other love than this is fleeting and precarious, and will subside, at the voice of a demagogue, into contempt and disobedience.

THE GHOST OF ALFRED,

Nov. 14. 1794.

LETTER

LETTER II.

To the Hon. THOMAS ERSKINE,

SIR,

THE excellence of Trial by Jury, does not merely consist in the security it affords to every individual that he shall not be declared guilty, unless the charge against him be established according to the regular forms of proceeding, but also in the fair and open manner in which it is conducted, and by which it enables the public to form its own opinion upon every case that is judicially brought forward. That Public, present at the Trial, hearing the whole of the evidence, and investigating with a scrutinizing but impartial eye, the minutest circumstances of the case, forms as it were a Court of Appeal from the Verdict of the Jury, and pronounces its own judgment *en dernier resort*. No human authority can enchain the faculties of the mind, or controul the free exercise of opinion. Therefore, although the Verdict of a Jury be entitled to respect and submission, as proceeding from lawful and regularly constituted authority, it cannot
 carry

carry conviction to the understanding, any further than as it may be supported by the evidence on which it purports to be founded,

There is, however, no authority too great for you to assume. You can not only arrogate to yourself the right of the Bench, and dictate the law to the Jury (as I noticed in my first Letter); nay, you are not even content with deciding for the public upon the propriety of a Verdict—These are small matters for your soaring genius—you can take upon yourself to pronounce for Heaven itself, and to anticipate its decrees. Thus, upon the trial of Mr. Tooke, you observed to the Jury, with your accustomed flippancy, that the Verdict by which HARDY was acquitted, was recorded in Heaven. That verdict is, indeed, there recorded; but whether by “the approving spirit,” as an earnest of future and open applause, as, with a boldness approaching to impiety, you meant to insinuate—or, as a gross specimen of a violation of the sacred rights of justice—it is not for you, to decide.—But this, by way of digression.

Great is the utility attending the exercise of this ulterior and paramount jurisdiction, unfettered by the forms of legal proceedings. It strengthens and confirms that moral influence, which is, perhaps, still more operative than the sanctions

functions of Law, in checking the perpetration of crimes. It has its use even with respect to Juries themselves, who, while their Verdicts thus undergo a revision, are, in a manner, themselves put upon their Trial; and it must operate as a beneficial check upon them, to know that their decisions will be examined, upon the same evidence as came before them, by a discerning public, superior to all influence, and,

Nullius addictus jurare in verba Magistri.

In reviewing the Verdicts of Juries, the public are ever ready to recognize the humane principle of our Law, that it is better that several guilty persons should escape, than that one innocent person should suffer. Still, however, it should not be forgotten that an acquittal, where guilt has been fully and regularly brought home to the party accused, is a most serious injury to the Community. But there are some cases in which acquittals should be scrutinized with peculiar exactness, and in which, the Juries who pronounce them are entitled to no favour, if the evidence be such as to justify conviction. Such are the cases which may, in their consequences, involve the safety of the State, and the existence of the Constitution. On any individual charge of murder or robbery, the evil, though positive, is not very

very extensive nor alarming, should the guilty be absolved. But a Treasonable Conspiracy is a direct attack upon the very existence of Society, and tends to the destruction of all Law, Order and Government. It is particularly heinous and aggravated, when, instead of aiming, merely, like the Treasons of former times, at the life of the individual Prince on the Throne, it takes a broader aim, and seeks the entire subversion of the Monarchy, and the total destruction of that glorious system of political happiness, which was the slow and gradual acquisition of your ancestors, and which has been transmitted to you in a course of progressive improvement through the channel of many revolving centuries. As Treason is the highest crime known to the Laws, so this is the most atrocious and malignant species of that aggravated offence—

“Treason

“Most foul as at the best it is,

“So this most foul, base and unnatural.”

It is the most dangerous both on account of the guarded and insidious manner in which it advances to the completion of its designs, and of the total, universal and irreparable ruin, which must attend the attainment of its object. A Jury assembled upon a charge of this nature, may hold in their hands the fate of the Empire and of the Constitution. The immensity of the interests which are then staked upon their decision, calls
upon

upon them in the most solemn manner to be as cautious not to acquit, if there be sufficient proof of the charge, as they are sure to be not to convict, if such proof be not adduced. Humanity itself, as well as justice and every thing valuable in society, may be wounded, as much by their misplaced lenity, as by their undue severity. It is not merely the life of the accused individual that may depend upon their verdict, but perhaps the lives of all honest men, which (as well as *that* of the sacred Personage, so justly esteemed by the law of unspeakably greater value than any other life in the State) are put in imminent danger, if such crimes escape with impunity. On such occasions, juries should bear in mind, that by the same verdict by which they acquit, they may pass a final sentence on the Constitution.

It is not meant to be suggested, that upon an accusation of High Treason, even of the dangerous and destructive nature above described, the importance of protecting the Government and of preserving the State, should supersede the necessity of regular forms and of satisfactory evidence, in order to justify a conviction. The enormity of the offence should only induce an unusual degree of caution in the jury, that the guilty (that is, those who
are

are proved to be so) should not escape. But it should be remembered, that on this, as on all other occasions, the imperfection necessarily attending every process of human investigation renders it generally impossible to attain direct, positive, and irrefragable proof, or to ascertain the motives and views of human conduct with mathematical certainty. A Jury must therefore be satisfied with that reasonable evidence which, according to the nature of the case, is the best that is attainable, although it may not amount to absolute demonstration. It is very rarely, indeed, that such demonstration can be procured; and the insuperable difficulty of obtaining it has rendered the admission of circumstantial evidence indispensable in judicial proceedings.

Neither is it meant in this place to pass either censure or approbation on the Verdicts already delivered in such of the State Trials as have lately occupied the Tribunals of this Country. Those Verdicts are in the judgment of the Public, and will be in the judgment of Posterity; but when the fermentation which is now so strong shall subside, it will be more easy to decide absolutely on their merits. In the mean time, they are far from deriving any credit from that indecent triumph with which they are received and applauded by that heterogeneous assemblage of factions,

factions, who, discordant as they are in other respects, unite in indecently opposing the sense of the Nation, and who weaken the State by dissensions, at a crisis when its preservation calls in the strongest manner for the closest union. *That* triumph is the most scandalous insult upon the Legislature of the Country, as well as upon the Grand Jury who found the Bills against the persons acquitted: for it implies that those respectable Bodies acted rashly and oppressively, as far as they were respectively instrumental in putting the prisoners on their Trial. If this were not the case, whatever ground the Verdicts in question might afford for calm and rational satisfaction, they could give none for rapture and exultation.

It is not, however, in the power of these Verdicts, and still less of the triumph which some persons, under the influence of a fellow-feeling, may display on the occasion, to raise a doubt in the minds of the Public, as to the propriety of instituting the Prosecutions. Whatever opinion may be entertained respecting the acquittals, it has been proved beyond all doubt, that the persons acquitted were far from being lightly put upon their Trial, and that there was *at least* so strong a ground of suspicion against them, that Government would have most scandalously

delously neglected its duty, if it had not put their conduct into a course of legal investigation.

THE GHOST OF ALFRED.

LETTER

LETTER III.

To the Hon. THOMAS ERSKINE.

SIR,

THE interval that has transpired since the acquittal of your Clients, has been too short, and the various feelings excited by those acquittals were too lively, for the public opinion, on this subject, to have as yet subsided into one uniform and collective sentiment. But whatever difference of opinion may appear to exist, respecting the acquittals, there is one fact, so fully, so clearly and incontrovertibly established by the Trials, that an attempt to deny it would involve the grossest insult on common sense, and denote an entire dereliction of all candour and decency. The fact so established is the existence of that treasonable Conspiracy, which was the subject of a Royal Message to Parliament—which was confirmed, after the most attentive investigation, by the Reports of the two Houses—which was made the foundation of an Act of the Legislature, whereby the immediate preservation of the State was provided for (as heretofore, in cases of emergency,

gency), by a suspension of the Habeas Corpus Act—and which was actually found by the Grand Jury, who put the Prisoners on their Trials.

The existence of that Conspiracy has now been fully proved, according to the strictest forms of Law, and with all the rigour of judicial investigation. The evidence given on the recent Trials will remain an eternal memorial on record, in full confirmation of all that has been alledged (and even more) respecting the reality, the nature, and the alarming extent of such a Conspiracy. The most sceptical have now demonstration within their reach; not by yielding to the impulse of vague suspicion, or to the suggestions of general alarm; not even by listening to the fatherly admonition of a gracious and affectionate Prince, nor by attending to the wise and seasonable measures of a vigilant Legislature; but by perusing a body of proof, regularly brought forward in the face of day, and submitted to the severest scrutiny of public examination. Nor is it merely by *oral* testimony, depending on recollection, subject to partiality, and capable of being depreciated by the unbridled licence of forensic examination, that the *general* charge is supported; sufficient, amply sufficient
for

for the purpose, is that *written* evidence, which came out in so unquestionable a shape, that you could venture to encounter it only by endeavouring to throw a veil over its most material parts; which was substantiated by documents found in the possession of the parties accused; which stood uncontradicted in every respect; which could not be shaken by the intimidating bluster of a cross-examination, by the indiscriminate use of invectives and calumny, by an incessant outcry against Spies and Informers, by sudden charges and prosecutions, hastily raked up to produce a momentary effect, nor by the various other engines of prejudice, to which, for want of better means of defence, you were glad to resort, in order to discredit the *viva voce* witnesses for the Crown. The *written* evidence was out of the reach of all your arts and stratagems; and it is happy for the cause of truth, that the Public may calmly and deliberately weigh that evidence, remote from the artificial bustle and affected animation which you know how to introduce, with all the contrivance of stage effect, into the Tribunals of Justice—and safe from the influence of that seductive eloquence, which you employ to bewilder when you cannot hope to convince; and which, instead of diffusing an useful light, like

the genuine rays of Apollo, exhibits only the dazzling glare of a meteor, that renders nothing conspicuous but itself, and throws every surrounding object into additional obscurity.

On such solid and immoveable grounds rests the proof of a Conspiracy, the most malignant that ever endangered the security of this or of any Country---A Conspiracy of a species entirely novel, but infinitely more subtle in its nature, more easy in its progress, and more extensively ruinous in its tendency, than any of which former times had a conception---A Conspiracy, invented in the laboratory of the "Rights of Man;" formed in the alembic of Modern Philosophy, upon a complete analysis of human nature and of society---A Conspiracy, which instead of advancing directly to its ultimate object, pursued that object in a circuitous manner, and endeavoured previously to remove every obstacle to its progress by weakening all the social ties---by stimulating into action every corrupt propensity---and by converting into a source of discontent, every political inequality, every moral imperfection, every natural evil, and even whatever, by being exhibited separately, could be made to appear disgusting, or be magnified into a defect, however it might conduce, in its general relation, to the benefit, harmony, and beauty of the whole

whole system. Having thus prepared a scheme of mischief, extensive as the Country itself, and deep as the very foundations of Society, this Conspiracy proceeded in its designs by means so artful, and under disguises so specious, as to be calculated to lull suspicion even at the very moment of alarm, until the desperate project should be advanced too far to be defeated.

The benevolent mind naturally contemplates with complacency every endeavour to ameliorate the condition of humanity; and the limited extent of the human faculties exposes the bulk of mankind to be fascinated by proposals that profess to consult their felicity, and to be induced to think themselves susceptible of far greater perfection than Providence has rendered them capable of in the present state. This was too important and too obvious a truth to escape the research of the modern philosophers, assisted by all the radiance of the new light. Hence the mask of Reform presented itself as the most favourable to promote and ensure the success of the Conspiracy: and although the pernicious publications, which were circulated with indefatigable industry, and *at a great expence*, in order to poison the public mind, pointed directly and expressly to the entire subversion of the subsisting order of things, and the complete

overthrow of the Constitution in Church and State; yet those who were employed in that circulation declared, with the most egregious inconsistency, that *their* object was Parliamentary Reform, and *that* by legal and constitutional means.

It was thus that the well and the ill-disposed, the virtuous and the vicious, the designing few and the credulous many, were all embarked in the same cause; and the aid of the million was depended on, under the influence of discontent, to move the vast machine of Society from its firm and ancient position, and to throw it into complete disorder. This plan of operation was not only the most efficacious, but the most secure. At whatever period the Conspiracy might be dragged forward, and made the subject of judicial enquiry, a defence was always prepared, and that defence was REFORM. And numbers who were prevailed upon to engage in the pursuit of that object, conscious of the sincerity of their own professions, were disposed to credit *that* of their coadjutors, and to bear testimony thereto, in the most solemn manner, and even under the sanction of an oath. But the Conspiracy had advanced too far, and was evidenced by facts too stubborn and too unequivocal, to admit of the possibility of a doubt
respect-

respecting either its existence or its tendency, although individuals might elude justice, by the guarded manner in which their operations had been concerted. The chief promoters of the diabolical plan had adopted a language, and had pursued measures, which demonstrated, in the clearest manner, that the word "Reform" was *a lie in their mouths*. Encouraged by the success of their principles and systems in France, they assumed, in their associated Clubs, the same forms, by which that success had been attained, and which had reduced France into a state of the completest Anarchy. They began a cordial intercourse with the promoters of that Anarchy, and the uniformity of the views of both parties was reciprocally acknowledged. They lost no time in dispatching their Ambassadors to the French Convention, when that body of Traitors had *formally* deposed their KING; and they were advancing with rapid strides, and by all the exertions in their power, to the formation of a *similar* Convention in this Country. The ideas of these persons, respecting the nature and object of a Convention, were sufficiently explained, when the Constitutional Society declared, by a formal Resolution, that the Speech of Citizen ST. ANDRE, (who, together with Citizen BARRERE, was elected an honorary Member) should
 be

be inserted in the books of the Society. In that Speech, so adopted, the Citizen Orator said, that "the powers of a Convention must, from "the very nature of the Assembly be *unlimited* "with respect to every measure of General "Safety, such as THE EXECUTION OF A TY- "RANT. IT IS NO LONGER A CONVENTION, "IF IT HAS NOT POWER TO JUDGE THE "KING." But it would be almost endless, and it is surely unnecessary, to trace throughout, the long and closely connected chain of evidence, proving that their design was to effect, under cover of the masked battery of Reform, the speedy and the entire subversion of the Monarchy and Constitution of Great Britain. Suffice it to add, that with the word *Reform* still in their mouths, they avowed at length, in plain language, their intention to obtain their object (not, as at first, by legal and Constitutional means, but) WITHOUT THE INTERVENTION OF PARLIAMENT, AND IN DEFIANCE OF ITS AUTHORITY. An attempt involving the total subversion of Government, and an assumption of its rights; and therefore, according to the clear and undoubted Law of the Land, amounting to the crime of HIGH TREASON.

THE GHOST OF ALFRED.

Nov. 18, 1794.

LETTER

LETTER IV.

To the Hon. THOMAS ERSKINE.

SIR,

THE existence of a Treasonable Conspiracy having been fully proved by the evidence adduced during the Trials of some of the individuals charged with that crime, to contend as you have since done in Parliament, that the acquittal of those individuals could destroy, or even diminish the effect of that evidence, is not only to insult, in the grossest manner, the good sense of the Public, but to employ a species of sophistry, which none but the most desperate cause could require. The Verdict of Not Guilty could do no more than decide the fate of the Prisoners, and absolve them from the pains and penalties which the Law attached to the crime with which they were charged: it could not, by the utmost perversion of reason, be made to declare their *moral* innocence in respect of *that* crime; for the only question was, whether their *legal* guilt had been *legally* proved: it did not even *technically* pronounce them

“ Not

“ Not Guilty” of any thing but High Treason, under the *subsisting* Laws; but left it, not merely possible, but highly probable, that the Juries thought them guilty of the highest possible degree of Sedition: and even in the limited sense of absolving merely from the charge of High Treason, it left the Public at full liberty to form their own opinion of the propriety of the Verdict. If this were not the case, the mode of Trial by Jury, instead of being a bulwark of Liberty, would operate as an engine of the most grievous tyranny; as it would fetter and enslave the operations of the human mind. Who then can possess the matchless effrontery to maintain that the acquittals, which, in reality, proved so little in favour of the individuals delivered thereby from the legal charge, could disprove the fact of a Conspiracy, which, after having been rendered, by the peculiar manner in which it was pursued, a matter of general suspicion and alarm, was at length completely established by the most decisive of all human tests—a public judicial investigation?

So far indeed were the acquittals from contradicting in any respect the *general* charge, that they serve, when considered in their connection with all the concomitant circumstances, even to corroborate that charge. The existence of a
Con-

Conspiracy was the basis of the whole proceeding. It was the necessary foundation of the case for the prosecution. If this ground-work had not been laid in the most solid manner, and so as to preclude all doubt, can it be supposed that the Prisoners would have been put upon their defence? What had they to defend themselves against, if no crime had been proved? Would the ATTORNEY GENERAL, finding that the very foundations of his case had failed him, have proceeded upon a baseless prosecution? If so, he would not have merited those compliments for candour and liberality, which you so profusely bestowed upon him. Or if he had shewn himself disposed to persist, after the evidence for the prosecution had left the truth of the general charge, the reality of the Conspiracy, on vague and precarious grounds, what became at that moment of the Counsel for the Prisoners? How did they acquit themselves of the duty they had undertaken? Did they rise and submit to the Court, that in their apprehension no case had been made out, which could require any answer from their Clients; that the evidence for the Crown had failed to establish the existence of the Conspiracy, which was the offence charged, and the necessary ground-work of the prosecution; that if the shadow of a doubt could remain, at that stage of the proceeding, not merely of the fact,

fact, but of the legal, regular, and unanswerable proof of the crime, it could answer no purpose, but that of trifling with the solemnities of justice, to proceed any further ; for that, in such a case, an acquittal must necessarily ensue, as it could not be supposed that the defence would supply the deficiency of the prosecution, in establishing the charge, and the Jury could never convict, unless they were convinced both of the truth of that charge, and of its particular application to the persons accused ; and that, therefore, they (the Counsel) demanded, as of right, an immediate acquittal ? On the strange neglect of the Counsel to urge such reasoning, which, in the case supposed, would have been unanswerable, would not the Judge have been bound to interfere, and to have put it to the Jury, that, if they disbelieved, after what they had heard, the existence of any Conspiracy to subvert the Monarchy, and to depose the King from his legal and constitutional dignity (which was the crime charged in the Indictment), they could never conscientiously convict the Prisoners ; that if the evidence for the Prosecution was closed without having established, to the satisfaction of the Jury, so essential a preliminary, there was no case made out which required any answer ; and that therefore it was to no purpose to call upon the Prisoners for a defence against a charge, already too weak to justify

tify a conviction. If, however, the Judge had unaccountably omitted such an interference, would not the Jury have suggested to the Bench their doubt of the existence of the Conspiracy, if such a doubt had been entertained by them; would they not have enquired whether, according to the forms of proceeding, that doubt was likely to be removed in the subsequent stages of the Trial; and if not, whether as it must ultimately lead to an acquittal, they might not as well pronounce that acquittal without further delay? Do you imagine that their impatience to listen to the strains of your eloquence, and their eagerness to see your powers of reasoning exerted in defending your Clients from a charge, which had not been proved even in the *abstract*, would have made them reject so fair an occasion of obtaining a release from the most harassing service in which Jurymen had ever been engaged, and of being restored to their homes and their families? But if, notwithstanding all these various opportunities of cutting short the Trials, the dignity of a Tribunal of Criminal Justice had been prostituted to the ridiculous farce of putting the parties accused upon their defence, against a charge, which had not been proved to have any existence, except on the face of the Indictment; if you, unmindful of so fundamental a defect in the case for the prosecution, thought proper to

waste your talents in making a most elaborate defence to that charge; if you still felt and acknowledged the immense difficulty of the task you had undertaken, and collected all your resources of art and ability to move the passions of the Jurymen, lest you might fail to convince their reason; how is it to be explained that those Jurymen, exhausted as they were, should, in two out of the three cases which they tried, have hesitated so long in pronouncing Verdicts of acquittal, if they really disbelieved the fact of a Conspiracy? If their Verdicts had been founded on a disbelief of that fact, rather than on a doubt of its being brought legally home to the accused persons, they could have had no occasion to hesitate for five minutes: nay, as in consequence of the unprecedented length of the Trials, they had repeated opportunities for mutual conference, even after all the evidence to prove the Conspiracy which had been given, they would probably have been ready to say, "Not Guilty," without even going out of Court. Upon a prosecution for murder, would the Jury retire or hesitate one moment to acquit, if they were convinced that no murder had been committed. The time that either of the Juries was out of Court, appeared to the Public extremely short to determine upon an acquittal, against such a weight of evidence, and

on so very serious a charge: but that time, or even a hundredth part of it, was entirely unnecessary, to enable the Jury to agree upon an acquittal, if the foundation of the charge had not been laid, by satisfactory proof of the existence of the Conspiracy. Even the single circumstance, that the Jury who tried the Rev. JOHN HORNE TOOKE, made up their minds in ten minutes to acquit, when the two other Juries were, one near two, and the other above three hours, in forming the same resolution, notwithstanding that the proof of the Conspiracy was the same in all, demonstrates that the only question with the Juries, was the application of the charge to the respective Prisoners, and that no doubt existed as to the fact of the crime. (It will be remembered, that the evidence respecting the project of a Convention, was not brought home to Mr. TOOKE,—whether in consequence of his superior caution and sagacity, or because he was not privy or assenting to that project, I will not pretend to determine.) But if, after all, it had been established, as the result of the trials, that the idea of a Conspiracy turned out upon examination to be a groundless fiction, unsupported by proof, as well as destitute of probability (as some persons have the audacity to assert), how happens it that your Clients have neither brought, nor even threatened to bring, their actions at

law for false imprisonment, against the Ministers of the Crown, who committed them for trial? You well know, that unless it could be made to appear that there were *very solid grounds* for the commitments, and for the prosecutions which followed, there are *very solid grounds*, to entitle the parties to heavy damages. It will scarcely be believed that an unwillingness to harass the Executive Government, and to embarrass its operations, at the most critical juncture this Country ever knew, restrains you from advising such actions, or your Clients from taking that advice. You dare not, however, make the experiment: and, in refraining from it, you furnish a *damning proof* of THE REAL EXISTENCE OF THE CONSPIRACY.

It appears, then, that the verdicts of acquittal which terminated the late prosecutions for High Treason, were perfectly consistent with the decisive proof which the Trials had afforded of the existence of a Treasonable Conspiracy, and that those Verdicts, when considered in their general connection with the whole of the proceedings, far from diminishing in any degree the force of that proof, did in some respects even confirm and strengthen it. That being the case, it would surely be too much for any one to contend that the acquittals could lessen the danger which at all times, and especially

especially at a time like the present, must be inseparable from such a Conspiracy. The glaring absurdity of such an assertion must preserve every one from the folly of making it. If the Trials established the existence of the crime, the acquittals announced the escape of the Criminals, and that equally, whether the parties accused were innocent or guilty; for if they were innocent, the acquittals proved that the Criminals had eluded DISCOVERY—if guilty, that they had eluded JUSTICE. In either case, and there is no alternative, the danger is increased, and the necessity of vigilance and precaution is increased also.

Without passing any judgment on the propriety of the Verdicts of "Not Guilty," and supposing even that honest and conscientious men could not have pronounced different Verdicts, it is, nevertheless, undoubtedly true, that guilt has hitherto escaped, and that Treason has triumphed over the Laws, although, thank Heaven, it has not yet triumphed over the Constitution.

The security of the Constitution has, however, been considerably diminished. Either from a defect in the Laws, or from some other cause, the forms of Justice have proved adequate only to substantiate the offence, but not to punish the

offenders. The greatest of all possible crimes, attended with the highest degree of aggravation, has been proved, by legal evidence, beyond the possibility of a doubt; a Conspiracy, not merely to wrest the sceptre from the reigning Monarch, but to "TEAR UP THE MONARCHY BY THE ROOTS," to annihilate for ever the Constitution, and, in direct and avowed imitation of the successful example of France, to introduce a system of complete anarchy. Such a Conspiracy, long evidenced by symptoms which filled every honest breast with anxiety, and pursued with so much art that the means of success were those of defence also—such a Conspiracy, so malignant, so subtle, and so destructive, has been regularly submitted to the Tribunals of Justice, it has been incontrovertibly established, and the result has shewn that the Constitution is destitute of the protection of the Laws. The source of all social security, the terror of Justice, has failed the Constitution at the moment of danger, and has left it exposed to the assaults of its enemies. The mounds and the barriers which have hitherto sufficed for its protection, have been found insufficient to withstand the novel species of attack, invented by the professors of modern philosophy and the "RIGHTS OF MAN:" as the fortifications of ancient times, which could resist the catapult

catault and the battering ram, would furnish no defence against the thunder of modern artillery.

The acquittals, therefore, far from diminishing the danger, of which the spontaneous feelings of every man had informed him, may be considered, without any imputation either on the Juries or even on the persons accused, to be subjects of the justest alarm.—Their obvious tendency is to impress the minds of the people at large with an idea of the weakness of the Laws, and of the immense, and almost insuperable difficulties, which Justice has to encounter, in order to detect and punish the worst of criminals. Their natural effect is to weaken the bands of society, by diminishing the respect of the people for Government; (the unavoidable consequence of its being made to appear that Government may be attacked with impunity.) The depraved, the turbulent, and the seditious, will, of course, be rendered more daring and presumptuous, when they find that the most desperate attempts, to destroy for ever the peace and order of society, are attended with so little hazard. Every Conspirator and Incendiary in the kingdom takes courage from the result of the prosecutions, the institution of which filled him with dismay, and considers every acquittal as a pledge for his own impunity, provided he keep within the bounds

prescribed. The newly discovered course of Treason has now been clearly delineated—it has been shewn to be safe from perils—to be free from rocks, shoals, and quicksands—to be secure, **AS THE LAW NOW STANDS**, from Justice, and to require nothing but patient perseverance, (avoiding only any deviation into another tract,) in order to conduct, safely and prosperously, to its ultimate destination, **THE COMPLETE OVERTHROW OF THE STATE AND CONSTITUTION.**

THE GHOST OF ALFRED,

Jan. 20. 1795.

LETTER

LETTER V.

To the Right Hon. CHARLES JAMES FOX.

SIR,

THE truly honest and conscientious man is as incapable of an attempt to mislead the judgment, as to invade the rights of property. He would as soon commit a robbery, as be guilty of intentional sophistry; nay, as practical truth is, in his estimation, of infinitely more value than gold, he would feel even more repugnance to deceive than to steal; but of all possible crimes, there is not one which he holds in greater abhorrence than the wilful perversion of truth and of reason, on matters which involve the welfare of States and the aggregate happiness of millions;—which engage the most solemn discussion in Senates, and excite deliberation of Legislatures. On these subjects, to make the worse appear the better reason, at the risk of all the consequences which may attend the success of sophistry and the prevalence of error, is the quintessence of vice, and the utmost extreme of human depravity.

D 4

It

It is a melancholy proof of the corruption of modern times, that the above criminal practice is grown so habitual, as to be pursued in utter defiance of all decency; while the men who are notorious for such a conduct, instead of being holden in the contempt and detestation which they deserve, and which would render them almost innocuous, are enabled to effect their mischievous purposes, by being permitted, at all times, and to any extent, to command the public attention. Nothing can be a stronger proof that the public feelings are destitute of that sensibility which is the best preservative of virtue; nor can any symptom indicate more forcibly that the country touches upon its fate. The mere frequency of such a spectacle is alone sufficient to corrupt the taste of a Nation, and to vitiate its principles.

“ Vice is a monster of so frightful mien,

“ As to be hated, needs but to be seen;

“ But seen too oft, familiar with her face,

“ We first endure, then pity, then embrace.”

And yet every day is the atrocious spectacle repeated—Every day witnesses the scandalous and immoral exhibition of a set of men, possessing public consequence, but entirely destitute of public principle, who openly prostitute their talents to the perversion of reason and the sacrifice of truth and consistency; who employ the political
character

character with which they are unworthily invested, in unceasing endeavours to mislead the public mind, to obstruct public business, to create general discontent and disunion, to frustrate every plan of utility, and even every measure of necessary defence, and to embarrass the Government, although, on the success of its exertions, depends the salvation of the Country. The opposition of these men is systematic—they indiscriminately resist whatever is proposed, with this difference only, that in proportion as it is excellent and important, their resistance is distinguished by virulence and obstinacy. Their motives are compounded in various degrees of personal ambition and personal animosity, but the former generally predominates, and rather than forego its gratification, they make no scruple to endanger the very existence of the State. The object they invariably pursue is, by the aid of cavil, misrepresentation and artificial odium, to deprive Administration of that public confidence and support without which it cannot act with vigour and effect—with a view of ascribing the failure of its measures to its own demerits and insufficiency. Not even a state of War can rouse the patriotism of these men: on the contrary, as it furnishes them with additional opportunities, so it operates by way of additional incitement, to pursue their desperate projects. The misconstruction to which such a situation gives occasion,

occasion, the difficulties, vicissitudes, and disasters to which it is exposed, the burdens, hardships, and calamities which unavoidably attend its continuance, and the impatience natural to the human mind to exchange so irksome a condition for that of peace and repose—these, and a variety of other circumstances, render a state of War the harvest of an unprincipled Opposition. No matter that the arms of the Country should be unsuccessful for want of internal energy and union; no matter that the honour of the Nation should be tarnished, and that it should be reduced at last to depend for its security, and perhaps its existence, on an inglorious and unsubstantial Peace—No matter that the Constitution should be exposed to destruction by the establishment of a system of Anarchy, which seeks to overwhelm all regular Government, and which has already convulsed civilized society to its very foundations—These considerations are of no moment, compared to the *grand and indispensable* object—the expulsion of a Minister. Better that the state vessel should perish than be preserved by a rival at the helm.

Nothing can exceed the mischievous effects produced by an Opposition acting on such principles. Supposing that it should fail to involve the

the Country in total and immediate ruin, which, at a crisis like the present, is its direct tendency, it impairs the beneficial energies of Government, and perverts the spirit of the Constitution. It converts those principles of check and controul, which were intended to preserve the balance and the harmony of the political system, into clogs and obstructions. It is the real source of corrupt influence, which it renders necessary, in order to prevent the machine from being totally impeded by the hindrance thus interposed. It deprives the Country of the advantages it might derive from the watchfulness of an honest and conscientious Opposition, whose just and discriminating censures would afford a real security against the supineness, inaptitude or depravity of an Administration. It almost nullifies the principle of responsibility, which the Constitution attaches to the situation of Ministers; for, by the artificial embarrassment it creates, it deprives their measures of that freedom of operation, and of that chance for success, without which it would be the highest injustice to make them strictly accountable; and it furnishes them, at the same time, with an excuse for failure, and with a pretence for shifting the blame from themselves (even where it may belong to them), which they certainly ought not to possess. Of this, indeed, the Opposition are so conscious, that they never pursue

sue a Minister beyond the confines of his office. When once they have driven him to that bourn of obscurity and oblivion, from whence they hope he will never return, their resentments instantly cease; then animosities are appeased; their threats of "*axes*" and "*scaffolds*" die away. They regard him as politically defunct, and seem to lose all recollection of his transgressions. Whether this proceed from some latent spark of conscience, which will not permit them to pursue others to punishment for sins *really* their own; or, from prudential motives, which warn them not to institute an enquiry, in which they may themselves be so deeply involved; or from a persuasion that the loss of office is complete an expiation for the greatest offences, as intirely to wash away the stain of guilt, to regenerate the delinquent, and qualify him for confidence and *coalition* with the purest characters; from which of these causes soever it happens that the success of Opposition is crowned with forbearance, your own experience and recollection can, better than any other man's, inform you.

But the baneful effects of an Opposition conducted in the manner above described, are not confined to the obstruction of the benefits which the Constitution is calculated to bestow, they also extend to the destruction of its essence. They

confound

confound the boundaries of its component parts, by causing those parts to encroach on each other, and they set the theory and the practice of the Constitution at variance. Hence it is that the Executive Power is so cramped in the exercise of all its Prerogatives, that an uninformed observer, judging merely from appearances, would suppose those Prerogatives to be vested in Parliament rather than in the Crown, or at least, though belonging to the latter, that they are unaccompanied with efficiency. This is owing to the pertinacity with which Opposition are incessantly enforcing, on all occasions, that right of interference, which is indeed the privilege of Parliament, but which is intended by the Constitution only to be exercised on particular occasions, and for particular purposes. Nay, to such an extent is this interference carried, that under the insidious cover of a fictitious substitution of the Minister in the place of his Master, that respect which is due to the Sovereign, and which is so essential to the happiness of the People, is violated in the grossest manner, by a factious and scurrilous Party. The important Prerogative of War and Peace, by which the Crown is made the constitutional conservator of the honour and of the political interests of the Nation, is so manacled, as to be deprived of its efficacy, and reduced nearly to a cypher. Every form of Parliament, every
pri-

privilege of the subject, (not excepting the important right of petitioning) is converted into an impediment to the free, vigorous and beneficial exercise of that Prerogative. And although a War may have been commenced under an universal conviction of its justice and necessity—although it may have had the firmest concurrence of Parliament, in its *constitutional* character, as entitled to vote or to refuse the supplies for its prosecution—yet so many obstacles are thrown in its way, that the Country, divided by the cavils of an unprincipled Opposition, has not a fair chance of success. Every circumstance of difficulty or delay, every occurrence of check or disaster, every additional burthen or inconvenience, is taken advantage of, to damp the spirit of the Nation, and to drive still further the wedge of division: until the Executive Power, embarrassed still more by the hydra of domestic Faction, than by the force of the foreign Enemy, finds it impossible to continue the War with that steady perseverance and effect, which are necessary to the attainment of an honourable and substantial Peace.

Nor are the malignant and mischievous efforts of Party confined to ordinary Wars, undertaken in support of partial though important interests, and which may admit of secure pacification with
the

the Enemy, even though their object should be found to be unattainable: those efforts are pursued with as much acrimony as ever, even now, that the Country is engaged in a War, on the success of which depends the existence, not merely of the British Empire, but of Civil Society. In direct breach of the most express assurances of support, the desperate band of opposition, as incapable of fidelity as of every public virtue, resist, with inextinguishable and increasing rancour, all the endeavours of Government to bring this War to a prosperous issue. Instead of setting an example of unanimity, so necessary at such a crisis, they hold up the torch of discord, and convert every motive of coherence into a source of dissention. They endeavour, by their perverse reasonings, by their incessant interruptions, by their vexatious enquiries, by their captious charges, and by all the arts of misrepresentation, to give the clue to Faction, to impede the exertions of the Country, and to withdraw the confidence and affection of the People from Government. They are constantly labouring to excite the despondency of the timid, to stimulate the machinations of the evil-disposed, and to blunt that abhorrence and indignation, with which the principles and conduct of the Enemy must inspire every virtuous breast. And although they are prevented by a vast majority of honest Senators, from attaining their avowed object of throw-

privilege of the subject, (not excepting the important right of petitioning) is converted into an impediment to the free, vigorous and beneficial exercise of that Prerogative. And although a War may have been commenced under an universal conviction of its justice and necessity—although it may have had the firmest concurrence of Parliament, in its *constitutional* character, as entitled to vote or to refuse the supplies for its prosecution—yet so many obstacles are thrown in its way, that the Country, divided by the cavils of an unprincipled Opposition, has not a fair chance of success. Every circumstance of difficulty or delay, every occurrence of check or disaster, every additional burthen or inconvenience, is taken advantage of, to damp the spirit of the Nation, and to drive still further the wedge of division: until the Executive Power, embarrassed still more by the hydra of domestic Faction, than by the force of the foreign Enemy, finds it impossible to continue the War with that steady perseverance and effect, which are necessary to the attainment of an honourable and substantial Peace.

Nor are the malignant and mischievous efforts of Party confined to ordinary Wars, undertaken in support of partial though important interests, and which may admit of secure pacification with the
the

the Enemy, even though their object should be found to be unattainable: those efforts are pursued with as much acrimony as ever, even now, that the Country is engaged in a War, on the success of which depends the existence, not merely of the British Empire, but of Civil Society. In direct breach of the most exprefs assurances of support, the desperate band of opposition, as incapable of fidelity as of every public virtue, resist, with inextinguishable and increasing rancour, all the endeavours of Government to bring this War to a prosperous issue. Instead of setting an example of unanimity, so necessary at such a crisis, they hold up the torch of discord, and convert every motive of coherency into a source of dissention. They endeavour, by their perverse reasonings, by their incessant interruptions, by their vexatious enquiries, by their captious charges, and by all the arts of misrepresentation, to give the clue to Faction, to impede the exertions of the Country, and to withdraw the confidence and affection of the People from Government. They are constantly labouring to excite the despondency of the timid, to stimulate the machinations of the evil-disposed, and to blunt that abhorrence and indignation, with which the principles and conduct of the Enemy must inspire every virtuous breast. And although they are prevented by a vast majority of honest Senators, from attaining their avowed object of throw-

ing the Nation at once at the feet of its perfidious adversary, they hope, by dint of perseverance, to succeed at last, in rendering the bulk of the People adverse to a War, of which the strenuous prosecution affords the last defence of Property, of Religion, and of every thing deservedly dear or valuable to man.

But, in order to do complete justice to the Party to which the above observations refer, and of which, to your indelible disgrace, you are the acknowledged Leader, it is necessary to view the conduct of that Party on the occasion of the Treasonable Conspiracy, which has been recently formed against the Government of this Country; which, but for the wise and timely precautions of Parliament, would, ere now, have laid the Constitution in ruins; and which has been rendered even more dangerous by the impunity of its contrivers and abettors. But, the peculiar importance of this subject entitles it to distinct consideration.

THE GHOST OF ALFRED.

March 5, 1795.

LETTER

LETTER VI.

To the Right Hon. CHARLES JAMES FOX.

SIR,

THAT the French Revolution was the focus of a deep and vast conspiracy against all the ancient institutions of Europe, civil, political, and religious, is a truth which is now become so notorious, that an attempt to illustrate it, would be an insult on the senses of mankind. The germ of this conspiracy was that licentious and infidel system which has for many years been propagated by a set of men generally denominated modern *philosophers*---A system which has for its object to eradicate from the human mind all those sentiments and principles, which constitute or strengthen the bond of social union, and to inculcate notions of wild and incoherent rights, which have never yet existed in practice, and which are incompatible with the existence of society. This system, meeting in France with a light, frivolous, and corrupted people, and with a Prince of a weak and indecisive character, in the twinkling of an eye overthrew a Monarchy which had existed for fourteen centuries, and which was considered as the most potent and solid Govern-

E

ment

ment of Europe, and with it, every establishment, human or divine, which had conduced to the order or stability of the State.

But it was not to France alone that the abettors of this system confined their views. On the contrary, they did not hesitate to declare openly, that their scheme of Philanthropy, as they termed it, *embraced the whole world**. The astonishing success of the first experiment could not fail to encourage them to pursue their avowed object of universal Revolution; and, indeed, the fires they had lighted in France must soon have burnt out, unless supplied with fuel from other countries. Hence the French Revolutionists immediately turned their thoughts to the extension of the mischief. They lost no time in dispatching their emissaries, in all directions, to disseminate or expand those principles which, when fully put in

* On the 14th Dec. 1792, one of the Members of the Convention thus recalled to the recollection of his Audience the means which had been employed by the first promoters of the Revolution to disseminate its principles. "Call to mind (said he) those days when Petion, Condorcet, Syeyes, &c. surrounded in the Pantheon like the Grecian Philosophers at Athens, instructed a multitude of disciples, making them perceive in our Decrees, THE SEEDS OF GENERAL INSURRECTION; that these strangers might disseminate the same seeds in their respective Countries, and PRODUCE SIMILAR REVOLUTIONS THROUGHOUT THE WORLD."

action, had been proved to be irresistible; they passed decrees, openly inviting the people of every country to insurrection; and they resorted to War, with a view not only of establishing their own usurped authority, but of assisting the disaffected of other States, in the subversion of their lawful Governments.

The liberty enjoyed in this Country afforded, for a time, an unbounded scope to the machinations of the French emissaries and their coadjutors. The press was most assiduously employed in circulating the subtle, but potent poison, to every part of the body politic. The seditious were congregated in Clubs, in order not merely to combine their own exertions, but to afford a rendezvous to the restless, the profligate and the disaffected, and to all who, from whatever motive, were desirous of a change.

These Clubs, ramified by means of *affiliations*, were spreading over the whole extent of the Country; and their members were every where engaged in circulating the most infamous libels on the Constitution, in endeavouring to alienate the affections of the people from their Government, and in recommending the French Revolution to their imitation.

The horrid 10th of August, which completed the overthrow of the Gallic Throne, gave the signal to the English conspirators, who instantly proceeded openly to display their real designs. They sent their congratulations to the French Convention, on the occasion of the King's deposition, and thereby they put it beyond the possibility of a doubt, that the object of the Convention, which they were endeavouring to form, was the deposition of the British Monarch.

At this moment, the crisis seemed to be fast approaching. The horizon was every where involved in the deepest gloom, and the sky was overspread with clouds of the most portentous aspect. Alarm filled the breasts not only of those who had long observed the growing danger, but even of those who had been hitherto strangers to fear. Consternation was visible in the faces of all who did not aim at the overthrow of the Constitution; excepting, indeed, a small, but desperate band, who were determined to risk every thing, rather than abandon their factious views. Those who were conspiring to effect the ruin of their Country, displayed the utmost confidence and exultation. The storm was ready to burst, when the Country was providentially saved by the instantaneous union of the friends of the Constitution, who formed themselves into loyal Associations, *for the protection of liberty and property*

party against republicans and levellers. This sudden and general combination, which nothing but an instinctive and universal sense of extreme danger could have produced, astonished the agents of sedition; who, far from calculating upon such a resistance, had imagined that all concert and union would here, as in France, have been confined to themselves; and, as they knew that the unsuspecting and unconnected many are easily kept in awe by the desperate and closely-united few, prepared for every emergency, and aided by the turbulent, profligate and abandoned, of every description, they expected an easy triumph over a Government unsupported by the people.

But, at the sight of the Associations, the Conspirators, in their turn, stood aghast--When they were almost ready to shout victory, they skulked to their lurking holes; and, for a moment, they seemed to renounce their desperate projects. Soon, however, they endeavoured to resume their activity; but, awed by the check they had received, they assumed an artful disguise, and sought to conceal their ultimate designs under the mask of reform. At length, they made another attempt to form a Convention, which, under the pretext of Parliamentary reform, was to supersede Parliament, and to usurp all the powers of Government. But while they were preparing for an explosion, their deliberations were

seasonably interrupted by the vigilance of Government. The leaders were put upon their trial to answer facts which both Houses of Parliament, in the most solemn manner, asserted to be true, and which a Grand Jury charged upon their oaths. The sequel is but too well known.

Thus the Conspiracy in this Country, which happily has been detected and frustrated, but which unhappily has not yet been punished, was but a branch of that great Conspiracy which the French Revolutionists had formed against all the Governments of Europe. Its success has hitherto been prevented by the union of the people, and the energy of the Government. May neither relax their efforts; for the danger will never cease while the Republic of France shall continue to exist. While that inexhaustible source of Revolutions shall remain open, there will be no safety for any Government upon earth.

The conduct of yourself and the party of which you are the avowed head, during the progress of these awful events, exhibits a specimen of political and moral depravity not to be equalled in the annals of faction. The French Revolution had long assumed a decided character of confiscation, massacre, and treason, and it threatened to become the scourge of mankind, when, in the most public and solemn manner, you pronounced

it

it to be the most glorious edifice of liberty, which had been erected on the foundation of human integrity in any age or country.

Consistently with this declaration, you have made the French Revolution the theme of your constant panegyric--you have adopted and avowed its principles--you have declared for the holy right of insurrection--and, not content with asserting the Sovereignty of the People, and their right to rebel, you have audaciously and treasonably presumed to trace the title of your sovereign to that source*. You have justified the crimes of the Revolution.

* On the 1st of February, 1793, Mr. Fox is reported to have used, in the House of Commons, the following language, which has never been disavowed by him: "The people are the Sovereigns in all countries--they may amend, alter and abolish the form of Government under which they live, at pleasure--they may cashier their Monarchs for misconduct. James the Second was cashiered. The people elected William. They elected the House of Brunswick, even the whole dynasty. It is clear, therefore, that the present family enjoy the Throne from the Sovereignty of the People." And on the 13th December, 1792, he said, in the same place, "The right of the House of Brunswick to the Throne originated in the only genuine fountain of all Royal Power, THE WILL OF THE MANT." Of such language, the mildest thing that can be said, is, that its object seems to be to recommend and enforce French Jacobinical principles, by means of an infamous libel on the title of the Sovereign, as well as on the Constitution, which, as Mr. Fox well knows, never did, either in principle or in practice

Revolution. You have not only applauded the revolts, mutinies, and treasons, by which it was effected, but you have recommended them to the example of other Countries*. You have palliated even its most shocking atrocities; and you have exulted in those victories by which France has reduced a great part of Europe to slavery.

In like manner you have patronized the cause and encouraged the efforts of those who sought to introduce French revolutionary principles and practices into this Country. With what zeal have you stood forward in Parliament to discountenance every endeavour to check the circulation of their baneful poison---With what assiduity have you laboured to prevent any restraints being imposed on the unbounded licentiousness of the Press. When the Clubs and Societies, which corresponded with French Traitors, conspired the subversion of the English Government, with what ardour did you undertake their defence, and contend against any interruption of their practice, recognize any thing like an elective title to the Throne, and which, in the case of the Revolution, affords the strongest possible proof that it abhors all idea of such a title.

* On the 9th February, 1790, Mr. Fox is also reported to have said that "the French army, by refusing to obey the "dictates of the Court," (that is, the commands of their lawful Sovereign) "had set a glorious example to all the "military of Europe."

ceedings---

ceedings---And when the great body of loyal subjects associated for the preservation of the Constitution, and in support of the Laws, with what acrimony did you abuse and vilify them! At length, when a gang of Conspirators were seized in the very act of framing a Convention, which was to assume the entire authority of Government, and which, according to the language of their own papers, would not be a Convention unless it had power to *judge the King, and to execute a Tyrant*, with what indignation did you resent---with what zeal did you oppose every endeavour to enforce the laws against such flagitious criminals, and with what indecent triumph did you exult at their escape from justice. But what shall be said of your conduct when Parliament, in its wisdom, judged it necessary to encounter, by new Laws, the subtle wiles of French Revolutionary Treason, which had eluded the operation of the ancient Statutes? History will record the speech by which you sounded the Trumpet of Insurrection, when you found, that, in spite of all your endeavours to provide for the *future* impunity of Traitors, the Bills which you opposed were likely to pass. Posterity, however, will scarcely believe, that a man could be found in Parliament so wicked as to declare, that, because the Legislature felt the necessity of providing additional security for the Person of the Sovereign, and for the preservation of the
Con-

Constitution, all ties of allegiance—all obligations of duty and submission—were dissolved; and that resistance was become *a question---not of morality, but of prudence**.

Upon the whole, such has been the countenance and encouragement which you have afforded to the internal and external enemies of your Country, that the perseverance of both in their execrable and destructive designs, may, without any exaggeration, be ascribed to the hopes which your language and conduct have led them to form.

* A late speech attributed to Mr. Fox seems to be a direct attempt to make a *practical* application of this doctrine. He is reported at a late meeting of the Whig Club (which it should be remembered is now nothing less than a foul mixture of Faction and Jacobinism) after giving as his toast, "The Sovereignty of the People," to have expressed a hope that the Associations which are now forming for the defence of the Country, would, after averting a foreign yoke, employ their arms for "the dethroning of *Domestic Tyrants*." Such language can require no comment; but surely it ought to inspire Government with the greatest caution, lest, in giving *prudent* encouragement to the noble and martial spirit which is now displayed throughout the country, it should afford an opportunity to the persons on whom Mr. Fox must be supposed to rely, for the hellish purpose expressed in his speech, to render themselves formidable by the acquisition of arms. It is an immense machine which is now forming, May it never become ungovernable!—*Editor's Note.*

Without

Without the support of a party in Parliament, the domestic traitors would never, with any degree of confidence, have persisted in their endeavours to overturn the Constitution---And, without their encouraging assurances and sanguine invitations, the foreign enemy would, in all probability, have refrained from an attack, which had for its immediate object to favour the progress of insurrection. Thus may the growth of Treason, and the breaking out of the War, be fairly laid to your charge.

Should conscience ever resume her functions in your breast, your situation will be dreadful beyond description. The sufferings which a mind like yours must then experience, would almost excite pity in the heart of a Jacobin. And yet a feeling of benevolence impels me to wish that you may undergo those expurgatory sufferings, rather than that you should be sent "to your account" with all your transgressions "on your head."

THE GHOST OF ALFRED.

May 20. 1795.

LETTER

LETTER VII.

To the Right Hon. CHARLES JAMES FOX.

SIR,

THE attempt made by yourself and your political Associates to deny the existence of that treasonable conspiracy, which has lately been the subject, both of legislative interference and judicial investigation, denotes *that* total disregard for public opinion which accompanies only the utmost degree of profligacy, and evinces, not merely the consciousness of a total loss of reputation, but an indifference to character, of which none but the most abandoned are capable. When principle is extinct, there often survives a sense of shame, which preserves at least an appearance of decency; and which, although it cannot amend the heart, possesses an happy influence over the conduct. But those dregs of Party, with which you continue to mix, and which, to the disgrace of former Parties of that description, still retain the title of *Opposition*, are as insensible to shame as they are to virtue, and knowing their character to be desperate and ir-

retriev-

retrievable, they renounce, without a blush, and without a sigh, the possibility of ever possessing the esteem or confidence of their Country.

The ground, on which you pretend to controvert the charge of the Conspiracy, will be found, upon examination, not only to expose the insincerity of your reasoning, and the fallacy of your conclusion, but also to involve a principle of the most dangerous kind; a principle, which clearly evinces that you have no true regard for Trial by Jury, and that you either do not know in what its real excellence consists, or do not scruple, to sacrifice, for the purposes of faction, all the advantages resulting from that institution. Instead of referring to the facts and circumstances, in which the Conspiracy was alledged to consist, in order to shew that the charge was unfounded, you cautiously avoid such a reference, and without venturing to touch upon any part of the complicated history of the Conspiracy, you infer the non-existence of the crime from the single circumstance of the acquittal of the persons accused. Had it been possible to find any thing in the *case* which would have warranted your conclusion, can it be supposed that instead of availing yourself of such an advantage, you would have relied solely upon a *Verdict* to support an
opinion

opinion which is at direct variance with the decided sentiments of the public?

It must, however, be admitted, that on this occasion you and your Party are perfectly consistent with yourselves, and that you adhere closely to your usual mode of proceeding. Whoever will take the trouble to examine your reasonings, will find that they are founded upon the perversion of whatever is susceptible of ambiguity, and the suppression of what is clear and unequivocal. The ambiguity of a general verdict of "Not Guilty," rendered it precisely such an argument as you are accustomed to employ. A Delphic Oracle could not have suited your purpose better. Its being absolutely inconclusive of the point in question, was amply sufficient to induce you to represent it as conclusive in your favour. Such are the topics to which you constantly resort, and which, by long practice, you know perfectly well how to mould to your design; and by their aid, though you cannot hope to convince, you succeed but too frequently in your endeavours to perplex and confound.

Without adverting at present to the monstrous absurdity of inferring the non-existence of the crime from the acquittal of the party accused,

your

your doctrine that *an acquittal is a complete establishment of innocence* is no less pernicious in its tendency, than fallacious in principle. Such a doctrine is incompatible with the mild spirit of English criminal jurisprudence, which in its endeavours to repress, by example, the commission of crimes, never loses sight of its favourite object, the protection of innocence. To this object the forms of practice, the rules of evidence, and all the numerous precautions which ensure to the accused a fair and impartial trial, seem principally directed. But it is the imperfection of all human institutions that no advantage can be gained, but at the price of some inconvenience; and that security of innocence, which is justly the boast of this country, cannot be attained without affording frequent opportunities for the escape of the guilty. The very means by which it is effectually provided that no one shall be declared guilty, unless his guilt be regularly proved, must, in the nature of things, often produce the impunity of crime; and it follows from that strictness of proceedings, which can on no account be dispensed with, that an acquittal must as certainly attend a mere doubt of criminality, and a mere defect of technical form, as the fullest exculpation from the charge.

3

An acquittal, therefore, is far from affording any absolute presumption of innocence, since it may, with perfect propriety, be produced by a great variety of other causes. That certainty of construction respecting guilt and innocence which you seek to extend to an acquittal, can exist only in the case of a conviction. It cannot exist in both cases; for if none be convicted, but such as are indisputably guilty, and none acquitted, but those whose innocence has been incontrovertibly demonstrated, what verdict is to be pronounced in those cases, (more numerous far than both the other descriptions united,) where either a doubt remains on the subject, or, without any such doubt, some chasm or informality imposes on the tribunal the irksome duty of pronouncing an unwilling ab-
 solution?

The only certainty that a verdict of "Not Guilty" is meant to produce, or that, consistently with the tenour of the judicial proceedings of this country, it can attain, consists in its legal operation and effect. An acquittal affords a certainty to the party, that he is for ever safe from the pains and penalties of the law. The prison, the pillory, and the halter, have no longer any terrors for him, unless by a fresh act he expose himself to a fresh danger. However,
 guilty,

guilty he may be in his own conscience, in the opinion of the Public, or even according to the evidence produced upon his trial, he has the sure protection of the Law, as much as the most innocent, to defend him from the legal consequences of guilt. An acquittal is a bulwark, and God forbid that it should not be an impregnable one, against all farther pursuit in respect of the charge from which it absolves. It affords a complete deliverance from that charge. But it is impossible to collect, from the acquittal alone, whether it was produced by a manifestation of innocence, or by a failure of that precision which is indispensable to authorize a conviction, even supposing the Jury, whose verdict it was, to have performed that duty to the Public which Juries often forget, when they indulge a false and mistaken lenity to the individual at the expence of the community. No one can judge, from the mere circumstance of an acquittal, whether the party accused appeared upon his trial in a favourable or unfavourable light—whether he was able to remove all ground of suspicion, or was proved to be deeply implicated in the crime laid to his charge—whether he came forth like gold tried by the fire, or obtained merely a hair-breadth escape through a defect of form, a nice distinction

F

of

of law, or by the sophistry of an Advocate. The evidence which might be insufficient to warrant a Jury to say "Guilty," may induce the Public to say, *take warning and sin no more*. Not a year passes but numbers are acquitted, whose trials convince both the Juries by whom they are tried, and the World, of their guilt.

This, nevertheless, is the utmost perfection that the Constitution has been able to obtain in the practice of its criminal jurisprudence: and, with all its disadvantages, it deserves admiration in its general result, since it produces the utmost security for innocence, although at the same time it occasionally lets loose dangerous and desperate offenders; who, emboldened by their escape, and insolent in their impunity, return impenitent to their former courses, and brave the tardiness of that justice which it is to be hoped will, sooner or later, consign them to the fate they so richly deserve.

The new system which you endeavour to introduce, would invert the whole order of judicial proceedings, and render trial by Jury a pernicious instead of a salutary institution. It would impose the *onus* on the accused to establish his innocence,

innocence, rather than on the prosecutor to substantiate his charge. It would render suspicion tantamount to proof, and sacrifice that scrupulous adherence to rules and forms, which constitutes the grand beauty of an English Tribunal, and the chief safeguard of an English subject. If an acquittal were decisive of innocence, it could take place only where innocence could be incontrovertibly demonstrated; and a conviction, instead of requiring full proof of guilt, might be pronounced in a doubtful case; or *because* the accused could not free himself entirely from all imputation.

In support of so harsh, odious and unjust a system, you pervert the well known and sacred principle of English Law, that *every one is presumed to be innocent till proved to be guilty*. But is it possible not to see that the term innocent here means nothing more than *innocent in the eye of the law*.—that it is merely opposed to that full demonstration of guilt which is required to justify a conviction—and that the sole import of the maxim is, that no one can be exposed to the legal consequences of a crime, without a *judicial* declaration of his criminality? Is it possible not to perceive that this benevolent adage is not only expressive of, but that it flows necessarily from, that extreme caution, with which the Law secures

every one from punishment, until his guilt has been duly and regularly established: presuming him, till then, to be *legally* innocent, however guilty he may, in reality, be? A grosser instance of sophistry was never displayed than in this attempt to construe the term innocence to signify absolute moral innocence of the crime in question. To support such a construction, you must suppose guilt to attach not upon the crime but the conviction; that whatever the circumstances of the case may be, a man is free from all stain whatever, and pure as the new born babe, in respect of the charge, until he be found guilty by his Peers—And that the word “Guilty,” pronounced by the Foreman of the Jury, has not only the marvellous effect of producing the criminality which it declares, and of involving the unhappy prisoner at once in all the depths of moral as well as of legal turpitude, but also a retrospective operation, back to the moment when the fact charged as criminal was done. Were it not an insult on the understanding to expose such wretched sophistry, it might be asked, whether if you were to see a murder committed, with every possible circumstance of aggravation, you would, in spite of the evidence of your own senses, presume the murderer to be innocent, because he might happen to be acquitted. Or, supposing that upon a charge of High Treason, (which the law requires

quires to be supported by two witnesses in order to justify a conviction) only one witness were to appear, would not the Jury be bound to acquit, although they were fully convinced, by the evidence of that witness, of the guilt of the prisoner? What becomes, then, of your doctrine, that an acquittal is conclusive of innocence?

Whatever opinion may be formed of the propriety of the late acquittals, it is perfectly clear, that upon the principle, that an acquittal implies entire innocence, the parties accused would have met with a very different fate. The Counsel who addressed the Juries on the part of the Prisoners, were much too prudent to argue upon that principle. They laboured the case upon very different grounds; and instead of admitting that the Juries could acquit only in case they were fully satisfied of the innocence of the accused, their reasonings were founded upon the very converse of that proposition. They tortured their ingenuity to convince the Juries that nothing could justify a conviction but the fullest proof of the charge up to its greatest extent,—*the actual conspiring against the life of the KING*, in the literal sense of the term—that whatever degree of folly, rashness, or even of criminality might attach upon their clients (whose conduct they

admitted to have been reprehensible), nothing short of such an intent, evidenced by clear and unequivocal proof, could warrant a Verdict of Guilty. It is true, one of those Counsel has, in the House of Commons, abandoned these grounds; and, secure of the acquittals which he had obtained by the very aid of such reasoning, he has endeavoured, like you, to deduce from them the *absolute* innocence of his late Clients. But in so doing, he was grossly imprudent, for he thereby embarrassed, by anticipation, his future defence of the HARDYS, TOOKES and THELWALLS, by whom he may hereafter be employed. On such occasions he will, when reminded of his Parliamentary opinions, be reduced to the necessity of sacrificing either his consistency or his Clients.

The doctrine that an acquittal is conclusive *of the innocence of the party*, being so absurd and unconstitutional, what shall be said of their reasoning, who argue from an acquittal to the *non-existence of the crime*? If the accused, although properly acquitted, may be undoubtedly guilty; who but an accomplice, dreading a farther investigation, or, at least, a favourer, from some collateral motive, of the criminal project, would attempt from thence to infer that the offence had not been committed? Such, however, is the

absurdity with which you are chargeable, when in support of your *affected* disbelief of the existence of the Treasonable Conspiracy, you urge nothing but the acquittal of the individuals accused. But so far were the Verdicts in question from speaking the language you ascribe to them, that, when viewed in connection with the whole of the Trials, they carry with them the most satisfactory proof that the Juries were fully convinced of the fact of the Conspiracy. It is also certain, that those Juries considered the conduct of the Prisoners as highly criminal, and as extremely dangerous to the State, although from some *technical doubts*, that had been artfully infused into their minds, they might not think themselves authorized to declare the parties Guilty of compassing the death of the King. Those doubts were not likely to be counteracted by the indecent behaviour of the numerous abettors of Conspiracy, who thronged the Tribunal during the whole of the Trials, and who manifested a lively and decided interest in the cause and the fate of the Prisoners; and still less by the hordes of *banditti*, who, (particularly during the last Trial,) surrounded the Court, and, in order to intimidate the Juries from convicting, made its avenues resound with the most horrid menaces of riot and carnage; menaces which derived an additional effect from the ex-

traordinary conduct of the Chief Magistrate of the City, who gave public notice that to preserve the public tranquillity, he would not resort to Military aid. Such circumstances, though collateral, form a most material part of the history of the Trials. Never before was Justice so flagrantly outraged in this Country. An influence of the worst kind was exerted—the influence of terror. Not to insist on the secret threats that were distributed (one of which is known to have been conveyed by letter to the house of a Juryman), the open appearances of a disposition to tumult, in the event of a conviction, excited a consternation in the metropolis, and induced many persons to dread the consequences of a Verdict which they considered as due to Justice. All the parties to the Conspiracy, all the associates and co-adjutors of the Prisoners, openly espoused their cause; and succeeded in engaging the interference of the rabble, who were easily persuaded to think it *their* cause. What precise effect such appearances really had upon the result of the Trials, it may perhaps be difficult to ascertain*; but certain it is, the symptoms

* If it be permitted to indulge conjecture respecting the causes that operated in producing acquittals, which were so contrary to the prevailing expectation, the most obvious general supposition, arising upon the face of the proceedings in Court,

toms were so alarming, that it was impossible for the Jurymen to divest their minds of the idea, that to convict might be fatal to themselves and their families. Are these the means to which innocence resorts in order to repel an unfounded charge? Are these the proofs which convinced your mind that there was no Conspiracy?

Upon the whole, with regard to the only question of any future importance, the existence of the Conspiracy, all the circumstances at all connected with the subject display that harmony and coincidence which are equivalent to *absolute demonstration*. The uniform history of domestic

Court, and perhaps not the least reputable to the Juries, seems to be—that the first acquittal was the effect of lenity and indulgence, the Jury considering the humble and obscure individual before them as a mere tool and instrument of more able and dangerous men, some of whom, they doubted not, would be convicted, and thereby the justice of the Country would, as they thought, be satisfied, and the benefit of example sufficiently ensured: that the second acquittal was pronounced because, in point of fact, and perhaps through the influence of superior ability and foresight, less evidence was attainable in that case than in the first: and the third, (which related to a case abundantly the most gross and flagrant of the three,) merely because it had been preceded by two acquittals—a circumstance which, it is due to the Jury to observe, was most unaccountably, and to the astonishment of every one, allowed some weight in the conclusion of the Judge's charge. This is an accurate, though compendious history of the three Trials.

transf-

transactions for more than two years—the uninterrupted concurrence of facts, notorious to all, and not disputed by any—the invariable impression made by those facts upon the public mind—the result of the most deliberate and impartial Parliamentary inquiries—the solemn and repeated Acts of the Legislature—the finding of the Grand Jury—the formal and elaborate investigation of the matter during three public Trials—and, finally, the Verdicts of the Petit Juries, when viewed in their connection with the whole of the proceedings, and with collateral occurrences—all these circumstances are in the most perfect and harmonious consistency with each other, and concur with united and irresistible force in establishing the general and awful charge—that a Treasonable Conspiracy has been formed, for the purpose of subverting the Monarchy, and of abolishing for ever the ancient and glorious Constitution of this Country.

THE GHOST OF ALFRED.

June 5, 1795.

LETTER

LETTER VIII.

To the Right Hon. CHARLES JAMES FOX.

SIR,

IT is now above a year since the most dangerous and desperate Conspiracy ever detected in this Country was made the subject of a charge of High Treason:—a Conspiracy not merely against the person of the Sovereign, but the whole frame of the Government, and the entire Constitution, in Church and State:—a Conspiracy against the very existence of Social Order:—a Conspiracy, in short, formed upon the model of the French Revolution, and pursued in concert with persons who had brought their own King to the Scaffold, and who had projected the destruction of all Kings, and of all Legitimate Authority. Although this charge was, in the opinions of many, brought home, in a manner sufficiently satisfactory, to some of the persons most deeply involved in the guilt of so horrid an attempt, yet, without any irregularity in the forms of proceedings; without the smallest doubt as to the facts alledged; without even any doubt as to

to the application of the Law to the case, Justice was baffled in her endeavours to reach the offenders, and the worst of all possible crimes was crowned with impunity.

To suppose that the Law does not consider such a crime as penal in the highest degree, would be to insult most grossly the Jurisprudence of the Country. Although, indeed, a crime of such enormous magnitude, and leading to such fatal and irreparable consequences, has never, in its full extent, been in the contemplation of the Legislature (for what Legislator could conceive, *à priori*, a system of such complicated mischief and ruin, as that which has assumed the title of the "Rights of Man?") Although this crime, is, therefore, not to be found *precisely defined* in the Statute Book, it comes, in the clearest manner, within the spirit of the provisions of the Law against High Treason.—For while the grand object of that Law seems to be the preservation of the King's Person and Authority, its real scope and essence are to secure the Kingly Government, in all its branches.

It is on account of the political character with which the King is invested, that all Treasons are made referable to himself. All crimes, indeed, are punishable

punishable, as offences against him, as being the Fountain of Justice: but High Treason is considered as more immediately pointed against himself, because it tends to the subversion of the Political State of the Country, of which he is "*Caput, principium, et finis.*" For such is his relative situation, that no harm can befall him without essential injury to the State; and, on the other hand, all attempts against the State tend, necessarily, to endanger his personal security.—While, therefore, for these reasons, his person is considered by Law to be so sacred, that to *compass* or *imagine* his death, is abundantly more penal than to perpetrate the murder of another individual; in point of legal guilt, the case is the same, whether the traitorous attempt be aimed against his life, or his political existence. In either case, the danger to himself is substantially the same; and the public danger is much greater in the latter instance, which is, therefore, in reality, the most aggravated, malignant, and destructive species of Treason. Upon this principle, a Conspiracy to depose him, or any step taken in pursuance of such a design, is invariably considered, in Law, as conclusive evidence of conspiring his death. For, I repeat it, the grand design of the Law of Treason, is not so much the preservation of the King in his natural capacity (though that, as essential to its main object, is provided for
with

with the most anxious and affectionate solicitude), but in his Kingly Office, in his Regal Dignity, and in his Sovereign Authority; which Office, Dignity, and Authority, far from being confined to the immediate exercise of the Prerogatives of the Crown, extend, in the eye of the Law, to all the functions of Government, in the utmost latitude of the term. For, according both to the letter of the Law, and the genuine spirit of the Constitution, all Power, Dignity, and Political Excellence, centre in the King. He is the Sun of the System, communicating light, life, motion, and energy, to every part, and maintaining the whole in order, harmony, and cohesion. Through him are derived protection and security. So high and transcendent does the Law consider him in his Royal character, that it ascribes qualities to him in that character, which, as a mere man, it would be absurd to suppose it possible for him to possess, but which it is highly beneficial to the Community* to consider him endowed with as a King.

Thus,

* "The mass of mankind will be apt to grow insolent and refractory, if taught to consider their Prince as a man of no greater perfection than themselves." 1 BL. C. 242. If a sentiment of respect to the Prince be of such importance on general principles, how strenuously should it be maintained and inculcated at a time like the present, when such indefatigable pains are taken, and such artful means employed,

Thus, while the individual Members of the Dynasty submit, in their turn, like other persons, to the stroke of death, the KING is immortal*. So also, in that character, he is possessed of absolute perfection, and deemed incapable of doing any wrong†; nay, it is a crime not only to impute wrong to him, but even to canvas with freedom his *personal* acts, except in Parliament; where, however, in order to preserve inviolate the respect due to his sacred person, without sacrificing thereto the necessary freedom of debate, those acts are always spoken of as the acts of the Minister‡: a fiction which has been too often perverted to the purposes of factious sedition, and made a cover for the violation of the very principles it was intended to preserve||. The King of England is also legally and exclusively invested with the attribute of Sovereignty, which he
derives

ployed, to loosen and dissolve the bands of Society, by exciting a contempt for all Legitimate Authority, and by persuading the People that they are under no obligations of duty or allegiance—that Government itself is an usurpation—and that the Sovereignty belongs to themselves.

* 1 BL. COM. 249.

† Ibid 245.

‡ “ But the privilege of canvassing thus freely the personal acts of the Sovereign, either directly, or even through the medium of his Ministers, belongs to no individual, but is confined to those august Assemblies.” Ibid. p. 246.

|| Thus Mr. GREY, in speaking of a Proclamation of the King, has been reported to say, that “ A Proclamation had
been

derives from the only legitimate source of authority, the Supreme Governor of the world, to whom alone (of course) he is accountable. "*Rex est Vicarius et Minister Dei in terrâ: omnis quidem sub eo est et ipse sub nullo nisi tantum sub Deo* *." Every individual in the kingdom, of whatever rank or station, is his Subject, and owes him allegiance. All Power is subordinate to him, excepting only the Law; for he reigns only by Law, and that he does so is the most brilliant and valuable jewel in his Crown †. It is stated by the great authority last quoted, that, in "the exertion of lawful Prerogative, the King is, and ought to be, absolute; that is, so far absolute, that there is no legal authority that can either delay or

been issued on which he hardly knew how to express himself, because he could hardly distinguish whether the sentiment that gave it birth was *more impotent or more malicious*." Mr. Fox has been known to speak with even less qualification or reserve. "I state it therefore to be my firm opinion, that there is not one fact asserted in *His Majesty's Speech* which is not *false*—not one assertion or insinuation which is not unfounded." And, afterwards, "the *Speech* goes on in the same strain of *calumny and falsehood*," &c. See DEBBETT'S Parl. Rep.—Surely it would have been to consult the dignity of Parliament, as well as the respect constitutionally due to the King, to have sent forthwith to the Tower the utterers of such shocking and disloyal indecencies.

* BRACTON, lib. 1. c. 8.

† "Nihil enim aliud potest Rex, nisi id solum quod de Jure potest." Ibid. lib. 3. c. 9.

resist him*." So likewise in his Legislative capacity, that is, in enacting Laws, by and with the advice and consent of the three Estates of the Realm, the Lords Spiritual, the Lords Temporal, and the Commons, the King is Supreme. For though, happily for the Liberties of this Country, no Legislative Act can pass without the concurrence and participation of the two Houses, which form the Council of the King†, in the High Court of Parliament, and which are therefore properly termed "his Parliament:" yet the enacting power is in the Crown—it is the King who is the efficient though not the sole Legislator: and it is his

* 1 BL. C. p. 250.

† "The King of England is armed with divers Councils, one whereof is called *Commune Concilium*: and that is the Court of Parliament—and another is called *Magnum Concilium*: this is sometimes applied to the Upper House of Parliament, and sometimes out of Parliament to the Peers of the Realme, Lords of Parliament, who are called *Magnum Concilium Regis*; for the proof whereof take one record for many in the fifth yeare of KING HEN. IV. at what time there was an exchange made betweene the King and the Earle of NORTHUMBERLAND, whereby the King promisseth to deliver to the Earle lands to the value," &c. "*per advice et assent des Estats de son Realme et de son Parliament ou autrement per advice de son Graund Councell*. Thirdly, as every man knoweth, the King hath a Privy Councell for matters of State. The fourth Councell of the King are his Judges of the Law for law matters." CO. LITT, 110. a.

"Habet Rex curiam suam in concilio suo in Parliamentis suis." FLETA, lib. 2. c. 2.

Will—his *Fiat*—which gives to every Bill the force of a Law : as appears from the form and language, as well as of the Act itself*, as of the King's Assent to every public Bill which *he* thinks proper to be passed into a Law†. Nay, it is a part of his Royal Prerogative to convene, prorogue, and

* “ Be it enacted, *by the King's Most Excellent Majesty*, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in the present Parliament assembled, and by the authority of the same;” which enacting part of a Bill is in Money Bills introduced by the following most respectful and loyal terms: “ Most gracious Sovereign, we your Majesty's most dutiful and loyal Subjects, the Commons of Great Britain in Parliament assembled, do most humbly beseech your Majesty that it may be enacted,” &c. The forms of Parliament are the most faithful, authentic, and durable, as well as ancient records, both of the rights and of the duties of Parliament; and it would be well if those persons, who wish to form just and accurate notions upon this important subject, would draw their information from such sources, and from the writings of respectable and long established Law Authorities, who, to deep study, have superadded the correcting and maturing influence of observation, reflection, and experience, rather than from the works of theorists and visionaries, whose views of things (notwithstanding their disposition to flight and romance) are as contracted as the closets where they pass their lives—from those of Party Writers, who represent every thing according to their own prejudices, or as it suits their purposes—or from those of presumptuous Foreigners, who fancy themselves qualified to instruct Englishmen in the History and Principles of their Laws, and in the Constitution of their Government.

† “ *Le Roy le veut.*”

dissolve

dissolve those august Assemblies; and it is by virtue of that Prerogative, that the Members of each occupy their high and important stations: the Lords being all, either in their own persons, or in those of their ancestors, created by him, and the Commons being all summoned by his writs.

Such are the important and dignified situation, state, and character of a King of England, and in respect of which the Law has so anxiously provided for his safety. The avowed and apparent object of that Law is the security of the King; because, as it was admirably expressed by a Learned Judge, "in securing the Person and Authority of the King from all danger, the Monarchy, the Religion, and the Laws of our Country, are incidentally secured. The Constitution of our Government being so framed, that the Imperial Crown of the Realm is the common centre of the whole; and all traitorous attempts upon any part of it, are instantly communicated to that centre, and felt there*." But the Law would

* See the Charge of the Lord Chief Justice EYRE, to that most respectable and independent Grand Jury, who presented, upon their oaths, that Thomas Hardy, John Horne Tooke, John Augustus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgson, and

would be strangely inconsistent with itself, if it did not guard, with equal care and anxiety, that situation, state, and character, on account of which it sets so high a value on the life of him to whom they belong. What absurdity would it be, if an endeavour to overthrow the whole Government, if an attack upon the Constitution in the aggregate, were not considered as equally penal, and punishable with as much severity as

John Baxter, as false Traitors against our Lord the King, their supreme, true, lawful, and undoubted Lord, did conspire, compass, imagine, and intend to stir up, move and excite insurrection, rebellion and war, against our said Lord the King, within this kingdom of Great Britain, and to depose our said Lord the King, &c. and to bring and put our said Lord the King to death." And that, " to fulfil, perfect and bring to effect their most evil and wicked treason, and treasonable compassings and imaginations afore said, they the said Thomas Hardy, &c. as such false traitors as afore said, did meet, conspire, consult, and agree among themselves, and together with divers other false traitors, to cause and procure a CONVENTION and meeting of divers subjects of our said Lord the King, to be assembled and held within this kingdom, with intent and in order that the persons to be assembled at such CONVENTION and meeting, should and might wickedly and traitorously, without and in defiance of the authority, and against the will of the Parliament of this kingdom, subvert and alter, and cause to be subverted and altered, the Legislature, Rule and Government, now duly and happily established in this kingdom; and depose, or cause to be deposed, our said Lord the King, from the royal state, title, power, and government thereof, &c. &c."

an

an attempt to deprive the King of his Life ! This would be to make a part more valuable than the whole, and the means more important than the end. Yet to such forced and absurd construction of the Law, the Prisoners lately tried at the Old Bailey, were chiefly indebted for their escape. For no person in the Country entertained a doubt, that the object of these Culprits had been to subvert the *whole* Monarchy. No person entertained a doubt, that if their designs had succeeded, such a subversion would have been accomplished. The proof of this, arising from the evidence adduced on that occasion, and particularly from the written evidence which contained their own records of their own proceedings, amounted to mathematical demonstration. But, because it was not proved that they meditated an immediate attack upon the King's Life, the Juries were prevailed upon to lose sight of the King's Crown and Dignity—of his Parliament—and of his Kingdom;—for the sake of all which, an attempt against his Life is declared to be High Treason. This could not have happened, unless those Juries, instead of looking to the Bench for that legal information, which they could not constitutionally derive, or honestly receive from any other source, had suffered themselves to be misled by the insidious reasonings of Counsel, who, finding the facts unanswerable, had no other chance of saving their Clients than by

raising doubts upon the question of Law; and who, in pursuance of this design, instead of submitting, as they were in decency and in duty bound to do, their observations upon the legal part of the case, to the only competent and impartial test—the opinion and decision of the Court, fought by legal conceits and perversions, to bewilder the minds of the Jury in an inextricable labyrinth of sophistry and chicanery*.

In

* It is much to be lamented that Judges do not more frequently display that firmness, which is an indispensable quality on the Bench, by interposing their authority, in order to keep certain Practitioners at the Bar within the bounds of regularity and decorum; and, particularly, when these Gentlemen endeavour to usurp the functions of the Bench, by pretending to lay down the Law to Juries. By repressing such attempts, Judges would not only consult their own dignity, but the dignity of Justice, the honour of its Tribunals, the purity of Judicial Proceedings, and even the respectability of the Bar. The learned Gentleman who conducted the Defence of the State Criminals at the Old Bailey, was, at the Trial of the Dean of St. Asaph, on the point of being committed, by a Judge eminently distinguished for all the qualities and endowments which can adorn that high station. If such commitment, which would have been fully warranted by the occasion, had taken place, it might perhaps have checked the Gentleman in that system of invalidating the legal authority of the Bench, which he has since pursued with too much success. What but error and injustice could be expected to prevail, if

In such manner, and for such purposes, did they contend, in contradiction to the highest legal

if Jures were to take their information on points of Law from men who are hired to be partial, and who, however wrong, "are bound" (as was once expressed by a Noble and Illustrious Judge) "not to be convinced?" But it is principally in cases of Sedition and Treason, that the strenuous interposition of the Bench is necessary to keep these Gentlemen within their province: For it is in such cases that they display their greatest zeal, and seem to exert, *con amore*, all their powers of sophistry, in order to obscure and pervert the Law, and "to make the worse appear the better reason:" and in these endeavours they meet with such success, that "it is easier for a camel to pass through the eye of a needle," than to bring an offender of that description to condign punishment, although the times, beyond all former example, teem with treasonable and seditious practices. There is cause for just alarm, when so many members of a profession, which should be most conspicuous in the defence of Law, Order, and Government, seem not only disposed, but eager, to encourage that spirit of licentiousness and insubordination, which threatens the very existence of civilized Society. These hopeful youths, who are trained up for "the seditious line," and who depend for their advancement, not on the *viginti annorum lucubrations*, but on the triumphs of Sedition, will be much better qualified to make Frenchified Citizens than good Lawyers. It was not thus that a COKE or a HALE was formed. An honest and conscientious Lawyer will consider himself as engaged in the service of his Prince, and he will think it his duty not to pervert, but to maintain the Laws. But the Advocate who prostitutes his tongue to the service of Faction, is the most base and detestable of characters. It was finely said by

legal authorities, both ancient and modern, and to the uniform tenor of legal decisions upon the subject, that nothing but positive evidence of a traitorous intention against the *natural* life of the King, could establish the charge of compassing his death. If this doctrine were law, it would necessarily follow, that a Conspiracy to depose the King, would not amount to High Treason. For, as the Statute makes no express mention of such a Conspiracy, unless it come within the description of compassing and imagining the King's death, it cannot be brought within the 25th EDWARD III. But the good sense of our ancestors discerned clearly, that to deprive the King of his Crown would be to endanger his life, if not to ensure his destruction; knowing, that a deposed

Lord CLARENDON, that "every good Lawyer must of necessity be a Prerogative-man;" that is, he must be particularly zealous to support legal Prerogative. The sense and spirit of the People will always be sufficient to preserve their Rights, and to render an invasion of them a chimerical attempt. But the Prerogatives of the Crown, which are of the very essence of the Constitution, and, *in effect*, among the most valuable privileges of the Subject, require every possible security against the machinations of Faction, and the undermining encroachments of Popular Influence. The upright and discerning Lawyer will, therefore, be ever ready to stand forth in defence of those Prerogatives, knowing, that by thus guarding the bulwarks of Order, he affords the best protection to rational and salutary Freedom.

Monarch

Monarch must be imprisoned for the security of the Rebels ; and that, for the same reason, " between the prisons and the graves of Princes, the distance is very small." Therefore, proof of such a Conspiracy, though not accompanied with any evidence of an intention to put the King to death—nay, though accompanied with positive proof (as far as such proof would be attainable) of an intention to save his natural life, and to preserve him from all *bodily* harm, is, beyond all doubt, conclusive evidence of compassing and imagining his death. This construction is supported by the highest authorities, even admitting the security of the King's person to be the sole object of this branch of the Law. It is laid down by Mr. Justice FOSTER, that " the care which the Law has taken for the personal safety of the King, is extended to every thing wilfully and deliberately done, or attempted, whereby *his life may be endangered* *." And Lord HALE, upon the same subject, says, " Though the Conspiracy be not immediately, and directly and expressly, the death of the King, but of something that in all probability must induce it, and the Overt Act is of such a thing as must induce it; this is an Overt Act to prove the compassing of the King's death †."—Upon the same prin-

* Fost. 195.

† 1 Hale, P. C. 109.

ciple, this Learned Judge says afterwards expressly, that "A conspiring to depose the King, and manifesting the same by some Overt Act, is an Overt Act to prove the compassing of the death of the King within this Act of 25th EDW. III.*" Nor is this construction less conformable to reason than to law. It is, indeed, an exemplary instance of the truth of the maxim, that "the Law is the perfection of Reason." For what can be expected to become of the King's Person, when stripped of his rule and authority? where would be the security for his life, when deprived of his Crown?—The uniform experience of mankind, and the invariable tenor of all history, in relation to such subjects, furnish a melancholy answer to these inquiries; and the recent example of France affords a dreadful confirmation of that answer, and proves that a deposition, brought about according to the system of modern Treason, is equally fatal to the Sovereign, and abundantly more so to the State, than one effected by the more direct and artless means known to former times.

If, therefore, the conspiring to depose the reigning Monarch, which might, possibly, have no other object than to place a King *de jure*, in-

* 1 Hale, P. C. 111.

stead of one *de facto*, on the Throne, be unquestionably a case of the species of High Treason, described by the words, *compassing the King's death*, a Conspiracy to subvert the Monarchy altogether, and to destroy the entire frame of the Government, must, *à fortiori*, come within the same description. For the deposition of the King is evidently included in the success of such a Conspiracy, though it be but a part of the mischief that would be effected by it.

Would the King be more safe from the all-destroying fury of democratic rage, instigated, inflamed and guided by desperate, unprincipled and aspiring Demagogues, than from the ambition of a successful Rival. As far as he is individually concerned, the distinction between a private assassination and a public execution, aggravated by the insulting mockery of the forms of Justice, constitutes the whole difference between that conspiracy to depose him, which the highest legal authorities have declared to be High Treason, and that Conspiracy against his Government which is framed upon the principles of the pernicious system entitled the "Rights of Man," except, indeed, that against the latter danger he can derive no security from any of his usual means of protection. But with regard to the State, the difference between the success of these two modes
of

of conducting treason is immense; a difference which involves in it the massacre or exile of the Clergy and Nobles, and of all individuals distinguished for wealth or public virtue—the destruction of all security for persons and property—the total subversion of all order and legitimate authority---the ferocious violence of popular fury ---and the unqualified but fluctuating despotism of usurping Tyrants:---in one word, the accumulated and unspeakable evils of Anarchy, and its inseparable attendant, Oppression; attended with the most violent and dreadful internal convulsions; leading, in the natural course of things, to foreign War or foreign subjection, and unavoidably productive of the complete ruin of the national resources, and of the annihilation of the national prosperity.

That the Conspiracy, instead of being directly aimed at the life of the King, pointed to this extensive, complicated, and irremediable mischief, which, besides its other dreadful concomitants, would have brought inevitable destruction on the Person of the Sovereign, was, in reality, the substance of the defence urged at the trials at the Old Bailey, and the validity of which was recognized by the acquittals. It is true that these dangerous and destructive designs were masked under the specious pretext

text of Parliamentary Reform; but this was, in fact, a very great aggravation of the crime, by pursuing it in a manner so artful and insidious, as greatly to increase the difficulty of repelling the attack, and to induce, under the influence of delusion, great numbers of even well-disposed persons to join in a plan, of which they did not suspect the real tendency or the ultimate object. It is a principle of natural justice, that the degree of criminality, in any case, is enhanced by treachery and disguise. The English Law so far adopts this principle, as to make disguise itself, in certain situations, a substantive crime, without any act being done. No one can doubt for a moment that Parliamentary Reform was merely a pretext in the mouths of men, who sought to introduce the system of *Universal Suffrage* (a system the most fatal to the existence of Parliament that could possibly be devised), and who were proved, by their own papers, to have disclaimed all intention of applying to Parliament, and even to have declared Parliament incompetent to carry into effect designs, which they were determined to accomplish by their own strength. But it deserves to be noticed, that, independently of the nature of their object, the *means* they employed constituted a complete instance of the crime of High Treason. For it was proved by the same evidence, beyond the possibility of contradiction,

that

that in order to effectuate their object, whatever it might be, they endeavoured to assume into their own hands the authority and power of Government: and there was also indisputable proof of their providing arms to assist them in the prosecution of this design.

Now, according to HALE and BLACKSTONE, such attempts come clearly within that description of High Treason, which is termed *levying of War against the King*. These Authors indeed allude, in that respect, to the cases of "levying War," to pull down *all* inclosures, *all* brothels, to remove counsellors*, to deliver generally from prisons†, to alter the established religion‡, &c. Such attempts are described by HALE, upon the authority of adjudged cases, as a constructive levying of War, which is not so much against the King's *person*, as against his *government*§. And BLACKSTONE represents such acts, on account of "the universality of the design," as "rebellion against the State, an usurpation of the powers of Government, and an insolent invasion of the King's authority"||. But what are such attempts compared with an endeavour, not only to usurp the functions of Parliament, and to assume the whole supreme authority,

* 1 Hale, P. C. 133. † Ibid. ‡ Ibid. § Ibid.

|| 4 Bl. C. 84.

but

but even to do that which, as declared by the offenders themselves, Parliament is incompetent to perform. This surely was the grossest possible instance of an endeavour to usurp the authority of Government, when it was meant to exercise that authority upon Parliament itself, and not only to supersede its power, but to destroy its existence, or, by new modelling it after their own pleasure, to make it the instrument of their execrable designs. This indeed was to attack the King in the noblest and most vital part, in his supreme Legislative character—in his High Court of Parliament. This would have been to sacrifice him on the very ALTAR of the CONSTITUTION.

The acquittal of the persons against whom such charges were substantiated, is indeed a phenomenon in the history of the Country—a phenomenon which can only be accounted for (paradoxical as such an explanation may appear) by attributing it to the unparalleled enormity of the offence; which, because it so greatly exceeded, not only the experience, but the conceptions of former times, both in degree of turpitude and extent of mischief, was artfully represented as being out of the reach of the ancient Laws. Other circumstances might indeed contribute to give effect to such representations. The prosecution

was

was embarrassed by numberless impediments, which either arose out of the ordinary course of proceedings, or were peculiar to the occasion. Such were, the impossibility of producing any other witnesses for the Crown (however strongly the necessity of such production might be suggested during the course of the Trials), than those whose names were delivered to the Prisoners ten clear days before the arraignment, while the Prisoners were under no such restriction * ; the great and scandalous insufficiency of the Pannel, many persons being returned who were not compellable to serve as Jurymen, for want of what is called a qualification : the neglect of adopting adequate measures to compel the attendance of such Jurymen as were qualified, many of whom naturally chose rather to incur a trifling penalty, than to engage in a service of

* It was a Statute of W. III. that first introduced a regulation of this nature—a Statute of which Bishop BURNET says, that “ the design of it was to make men as safe in all treasonable conspiracies and practices as possible.” The mischievous effects produced by this statute, have corresponded exactly with the description given by the Right Reverend Prelate of its design, and impose a duty upon the Legislature to repeal it without delay. Why a different mode of practice should prevail on Prosecutions for High Treason and for Murder, unless it be with a view to facilitate the escape of offenders of the worst description, it is difficult to conjecture.

such

such severe duty: the great extent of the Prisoners peremptory challenges, which, together with the two last preceding circumstances, deprived the Crown Officers of the benefit of *their* challenges, and even obliged them to admit some Jurymen whom they had actually challenged, while it restrained them from challenging others, who were known to have displayed a zeal in favour of the principles *, which had led to the perpetration of the crime they were to try, and who, consequently, must be supposed to feel a partiality in favour of the Prisoners, although they could not approve

* Considering the very great extent to which these principles have been propagated; the many Clubs and Affiliated Societies, the Divisions and Subdivisions, by which their influence is spread and kept up through every part of the body politic; and the astonishing zeal and activity which all, who are once proselyted to this new faith, display on every occasion at all connected with their cause—considering these circumstances, it may be too much to hope that a Pannel returned in a case of High Treason should be free from any mixture of persons of that description. But if proper measures were taken to render the Freeholders Book perfect, and by continued attention to keep it so, none but persons qualified in point of property would be returned; and then, if the Court would make it a rule to compel, by *adequate* penalties, the appearance of those who should be summoned, there would always be a sufficient attendance to ensure a full Jury, even after the Crown had challenged such as might be disqualified in point of principle, and the Prisoner had made his peremptory challenges, to the *very great extent* allowed by Law in cases of High Treason.

H

of

of their conduct in its full extent;—all these circumstances, (together with others, which it is needless here to recount) had undoubtedly their effect in producing the acquittals. But, after all, it is impossible to account for the lamentable failure of Justice, without ascribing it, as its primary cause, to the magnitude and atrocity of the offence, which consisted, not in an attack on the King's natural Life, but in an attempt to subvert his Throne, and to stab him through the sides of the Constitution.

THE GHOST OF ALFRED.

April 9, 1796.

LETTER

LETTER IX.

To the Right Hon. CHARLES JAMES FOX.

SIR,

IT required no great degree of discernment to foresee that the acquittal of the State Criminals at the Old Bailey, would induce the necessity of providing new laws against Sedition and Treason: Laws, which should not only be too explicit to admit of the perversion which had been so successfully employed in defeating the old ones; but which should have the effect of nipping Treason in the bud, instead of suffering it to arrive at a state of maturity. Some persons, indeed, were disposed to believe that the *all but convicted* Traitors could be won by lenity; that they could be wrought upon by a sense of their *wonderful* escape, and induced thereby to abandon their criminal projects, notwithstanding their frequent and peremptory declarations to the contrary; and that the Constitution might even derive fresh security from the impunity of those who plotted its destruction. These extravagant and absurd expectations, which displayed a total ignorance of the determined perseverance of the disciples of the

new Philosophy, have been compleatly disappointed. The men, of whom such charitable hopes were formed, soon returned to their Seditious "vomitings," and to "their wallowing in the mire" of Treason. Insensible of the indulgence by which they had escaped the fate they most richly deserved, they have been rendered thereby but the more daring and indefatigable, in the pursuit of their mischievous designs. The Press has become more licentious and inflammatory, the Schools of Sedition have been more numerous, the Lecturers more animated, and their Pupils have been more frequently convened, not merely in their institutional Assemblies, where they learn the first principles of the science, but also in the field, in order to train them to habits of discipline; to inspire them with a consciousness of their strength by a sight of their numbers; to enlist all who are disposed for mischief, under the banners of Disloyalty; and, by enuring the public to such assemblages, to lessen that salutary dread, which all very numerous meetings, and particularly when so composed, are calculated to inspire.

The horrid attack on the person of HIS MAJESTY on the first day of the present Session, in his passage to and from Parliament, was the natural fruit of such proceedings. If that attack had been permitted by Providence to produce

duce its intended effect, the unutterable calamity which it would have brought on the Nation, could only have been ascribed to the operation of those licentious doctrines and inflammatory discourses, which had seduced the multitude from their duty and allegiance; which had inspired them with contempt for whatever they had been accustomed to hold in reverence; and prepared them for acts of outrage and atrocity, at the very idea of which, without such incitements, they would have shuddered. The connection between such a cause and such an effect is too obvious to be denied by any but the most profligate. It is not necessary, indeed, in proof of such a connection, to suppose that the specific Treason which blackened that dreadful day, was actually hatched in the Committees of the Corresponding Society, or that the wretches who fought the life of HIS MAJESTY, were immediately employed for that purpose by the Lecturer of Beaufort Buildings, or the Orators of Chalk Farm, or of Copenhagen-House. It is not on such modes of Treason that these men chiefly rely to accomplish their designs. That they would rejoice at the success of any attempt against the life of Majesty, it is impossible to doubt, but they would not expose their plans to the failure of such an attempt, nor themselves to the proof of having instigated it.—They would be fools if they did. Theirs, though a more slow, is, in

respect of themselves, a safer system, and much more sure in respect of its object. They know better than to place their dependence on the hand of a lurking Assassin, or on the savage fury of an enraged Mob. The horror, confusion and dismay attending the success of such means might be surmounted.—A successor might avenge the horrid deed—and the glorious scheme of Liberty and Equality might, in the result, lose ground. Their hatred is not against the person of the KING, but his Throne: not against the Monarch, but the Monarchy. The crime of Regicide, in order to answer *their* purpose, must be preceded by indignity, insult, and dethronement—by the sentence of a pretended High Court of Justice, or of a Revolutionary Tribunal.—The Scaffold is their Altar of Liberty, where alone Royal Blood should flow, in solemn expiation of the unpardonable offence of wearing a Crown, and whence they might, at the same time, proclaim to the World, the subversion of the Throne, and the extinction of the Monarchy. Such are the scenes in which they aspire to act a distinguished part; they review with rapture and exultation, the atrocities of that nature which already stain the page of History; and they pant for an opportunity of adding to the list of Royal Martyrs. Impatient for the renewal of such atrocities, they are clamorous for

Peace with the Muderers of the Gallic Monarch *,
who,

* It deserves, and it cannot escape observation, that those Persons who are most clamorous for Peace, are alike distinguishable for their zeal in favour of the French Republic, and for their attachment to the principles on which that Republic is founded. They find that the War, contrary to the expectation of those who provoked it, has proved the Palladium of the Constitution; and, while it lasts, they despair of seeing the glorious system of "Liberty and Equality" established in this Country. But they look forward to a Republican Peace as to a Republican Triumph;—they expect it to prove the vernal season of the "Rights of Man," which will soon be succeeded by a rich harvest of Treason, Insurrection, and Revolt;—and they doubt not, that it will give to Government much more difficult and embarrassing occupations, than the direction of a War, by exchanging an honourable and conservative contest with a foreign enemy, for scenes of domestic strife and convulsion. They dwell with exultation on the idea of an harmonious, fraternal, and uninterrupted intercourse with their Gallic Brethren, with whom, alas! they now can only sympathize at a distance;—they rejoice at the prospect of the advantages which must flow from an open communication with the successful and irresistible Republic;—But when they think of the arrival of a Republican Ambassador from France, and of his triumphant entry at St. James's, then it is that their transports are at the height, and they shout their *Io Paxans* in the highest strains of extatic rapture. Left, however, the incredulous should doubt whether feelings so base and unworthy can reside in English bosoms, let one of the Fraternity speak for the rest.

"For myself, who have exulted in the success of the French, and the disgrace of their insolent and odious Foes, with a keenness of transport not to be described, I have been long

who, by commemorating, have recently repeated their crime; and who by resolving that the insulting commemoration shall be annually repeated, have fairly and candidly announced to all Crowned Heads, their determination never to abandon their regicidal principles.

prepared to hail the triumphant entry of a Republican Representative; and shall exclaim, with equal sincerity and rapture,

“ Dicite Io Pœan, et Io bis dicite Pœan.”

“ Oh! may I live to hail that glorious day,

“ And sing loud Pœans through the crouded way.”

In another passage, the same Author speaks of “ the neighbouring influence of the French Republic; not her arms, but the *silent and tranquil operation of her principles, on our character, our manners, and our policy;—an imperceptible, efficacious energy! which nothing can preclude, nothing can counteract, and nothing eventually resist.*”—See “ A Reply to the Letter of EDMUND BURKE, Esq. by GILBERT WAKEFIELD, B. A.”—Thanks to Mr. WAKEFIELD for so apt an illustration of a Republican Peace.

How strikingly has the experience of Genoa, Venice, Switzerland and America, confirmed the prophetic suggestions contained in the foregoing note! Surely no further proof can now be wanting to convince mankind, that in order to procure the blessings of Peace, they must unite for the overthrow of the French Republic. Peace with that Republic has invariably proved, and will continue to prove a much greater misfortune than War.

Editor's Note.

But

But in order to bring about, in this Country, a state of things which would lead to such a crisis, these Conspirators are fully aware that they must cautiously abstain from intermediate violence, which, by exciting general disgust and alarm, would tend only to frustrate their projects. They have too much sagacity, and too intimate a knowledge of the nature of man and of society, not to discover that their best chance for success is by corrupting the public opinion and principle. To effect this, they want nothing but an uninterrupted access to the public mind. If they could, by an unlimited licence in speech and writing, obtain permission to utter whatever sentiments, to promulgate whatever opinions, and to inculcate whatever principles they please, upon all subjects relating in any respect to Government, they are morally certain of being able, by degrees, to poison the minds, to excite the discontent, and to inflame the passions, of the mass of the People, to such a degree, that it would become impossible to restrain the exercise of the "*sacred right of insurrection.*" They, therefore, with great wisdom and consistency, avoid every thing that favours of commotion; they cautiously refrain from present violence, because it might interfere with their schemes of future and more complete violence.— They are perpetually boasting of the open and peaceable manner in which their followers assemble and disperse. They are constantly re-
peating

peating that the only weapons which they employ are reason and argument ; and, with great earnestness, and equal sincerity, they exhort their pupils to avoid every appearance of tumult and disorder.† In short, they artfully profess to confine all their pretensions to the sacred right of free discussion ; and they disclaim, in the most solemn manner, all recourse to other means. This is all they appear to require, and, indeed, all they actually want, in order to enable them to effectuate their designs. They well know, that this fair and specious privilege, harmless in appearance as it seems to be, nay, valuable and beneficial as it really is, when subjected to wholesome regulations and restraints, is capable of producing the

† The Lecturer, who makes a livelihood by the sale of his Seditious Poison, shortly before his labours were interrupted by the calls of justice, suffered himself (rather unguardedly, it is true), to avow his confidence in the means employed by him and his coadjutors. Wishing to discourage some symptoms of impatience, which his audience had manifested rather boisterously, on the delay of his appearance beyond the appointed hour, he took the opportunity to caution them against every appearance of tumult or commotion ; observing, that “ the means they professed to employ, were not only more safe and easy, but also infinitely more efficacious than open force ; that, by continuing, in a quiet and peaceable manner, to exercise the inestimable privilege of *free discussion*, they would do more to promote the attainment of the important objects they had in view, than by the aid of myriads of men in arms, or by the most powerful artillery, were they disposed to resort to such means.”

utmost

utmost extremes of violence, confusion, and anarchy: consequences so different from the mild and gentle character it assumes, that it requires more penetration, and a greater faculty of reasoning from cause to effect, than mankind in general possess, to be able to foresee them. But the active and expert Professors of the New Philosophy are better instructed;—they are fully aware, that discussion, in the unlimited sense in which they claim the right, and in the excess to which they mean to carry it, is a powerful engine for the subversion of Government—a mighty Lever, sufficient, if judiciously applied, to overturn the Social Order of the whole World.

But although the Seditious Clubs, and Affiliated Societies, with their active and indefatigable Leaders, may, for the reasons above stated, be fairly acquitted of any direct interference, and indeed of any privity, in the flagitious attempt recently made against the most valuable Life in the Kingdom, they must, in the judgment of every thinking person, be convicted of having produced the danger to which that life has been exposed. They were the primary and predisposing, though not the operative, cause, of the shocking outrage. They had excited the spirit of disloyalty, which broke forth on the occasion, and which, though it be necessary for their future purpose, it would have been their interest to restrain,

restrain, until the time had come when it might be let loose with more certainty of effect. The Mine they had been long preparing, exploded before it was complete: but although it failed, for that reason, to produce its intended effect, and although they were unprepared to take advantage of the sudden explosion, it is not the less true that the combustibles were collected and arranged by themselves.—Thus the designs of the wicked are sometimes defeated by the very means employed for their accomplishment.

It pleased an over-ruling Providence to guard the sacred person of HIS MAJESTY in the hour of danger, in gracious token, it is to be hoped, that he is destined long to reign over a grateful and a loyal People, and at length to transmit the Crown of these Realms to an illustrious race of descendants, who will not only sway his sceptre, but inherit his virtues. There is even reason to hope, that good will arise out of evil; and that the abortive attempt to perpetrate the worst of crimes will, in its consequences, be productive of additional security to the Constitution. The horror, alarm, and indignation universally excited on the shocking occasion, instantly suggested the indispensable necessity, not only of making farther provision for the safety of HIS MAJESTY'S Person and Government, but also of guarding, by wise and efficacious measures, against the CAUSE,
which

which having, by a partial and premature operation, produced such effects, shewed, in the most striking manner, to what consequences it would lead, if not seasonably and effectually checked.—With a view to such important objects, and in compliance, as well with the earnest wishes of the Nation, as with the imperious call of circumstances, two Laws have been made, which, in conformity to the wise principle that had presided over the formation and progress of the British Constitution, were adapted to the exigency of the case, and to the nature and extent of the mischief they were intended to remedy. The provisions of these Laws have been too much discussed, and are too well known, to require any comment.—Suffice it to say, that their great excellence consists in their being calculated still more for prevention than cure, by tracing Sedition to the seminaries where it is inculcated, and by crushing Treason, while in embryo, instead of suffering it to acquire the form and consistence of *Overt Acts*. In passing such Laws, on such an emergency, the Legislature performed a duty, the omission of which would have amounted to the basest treachery—to an absolute surrender of all those interests, which it was its bounden duty and most important object to preserve. But upon the passing of these Laws, a duty equally solemn and indispensable devolved on the Executive Government, whose province it is to take
care

case that they do not remain a dead letter on the Statute Book. Should it be permitted either directly to infringe, or indirectly to evade them with impunity, the People will be apt to despise the authority by which they were made, and thus they will be even instrumental in accelerating the mischiefs they were intended to prevent. It therefore behoves the Crown Officers and the Magistracy to exert their utmost vigilance and activity in giving effect to these salutary Laws, and in convincing the ill-disposed, that as often as they offend, their conduct shall be subjected to legal investigation. * Now your idolism of But

* Notwithstanding all the approbation to which the principle and the provisions of these Laws are entitled, it is impossible not to discover a deficiency of prudential spirit and firmness; as well in restricting their duration to the short period of three years, as in deferring, to a second conviction, the possibility of subjecting seditious practices to the penalty of transportation. It is surely to renounce all idea of proportion between crimes and punishments, to inflict death or transportation for many of those offences which are thus punished every day by the English Law, and to suffer the crime of Sedition, which leads, in its ordinary operation, to treason and revolt, and, in its modern tendency, to all the horrors and miseries of civil anarchy—which is the parent of all the crimes and of all the calamities that can afflict society—to suffer such a crime to pass through all the stages of guilt, which must, in all probability, precede a second conviction of the same offender, before it can meet with the only punishment applicable to an offence of that description. If in all the criminal codes by which justice is administered, or in all the systems created by fancy for its more perfect administration, there be one punishment more strikingly apposite to its

But all the wisdom of the Legislature, and all the energy of the Executive Government will be of no avail, unless juries resolve to act with firmness in their important functions. Their situation, on such occasions, is undoubtedly arduous and embarrassing. During the Trial, they have to resist all the arts of persuasion—all the charms of eloquence—all the efforts of ingenuity, which are sure to be exerted, in order to excite in their minds a doubt of guilt; a doubt which as certainly produces an acquittal,

as its correspondent offence than another, it is that of Transportation, when applied to the crime of Sedition. What can be more just or equitable, in respect of the offenders, than to send out of a Country those who not only dislike, but who endeavour to overturn, its political establishments, and who seek to inspire their fellow subjects with the same spirit of discontent, restlessness and disaffection, by which they are themselves actuated? What can be more judicious and salutary in respect of the state, than to expel those noxious humours, which not only generate disease, but, by their contagious quality, tend to corrupt the whole mass of juices in the body politic? Besides in respect of this class of offenders, there is no penalty, short of Transportation, that operates as a punishment. The Pillory is to them (as it has been called in appropriate language) "the stepping stone to glory." Fines imposed upon them are levied by the voluntary contributions of a numerous fraternity; and Prison is but the theatre of their triumph, where they brave the laws by the most daring and flagrant repetitions of their offence—where they are loaded with the caresses and the presents of the disaffected—where they hold assemblies of conspirators, to contrive fresh plots against the State—where they open new schools

as a demonstration of innocence. Against such artifices they should ever be on their guard, remembering that it is the duty of the Judge, not only to give them all the assistance in his power, by developing complicated facts, and by communicating to them the law as it applies to those facts, but also to act as Counsel for the Prisoner, and to take care that he have the benefit of every fair advantage that arises in his favour, either from the law or the fact.

It is not, however, in open Court that honest and conscientious Jurymen have the greatest difficulties to encounter. Their most arduous task is to find schools of Sedition, and find it an easy matter to repel the effects of wholesome correction; and to infuse the poison of disloyalty into minds already inured to habits of licentiousness—and whence, at length, they return to their homes with exultation, and with confirmed dispositions and increased powers for mischief.

In allusion to the foregoing observations respecting prisons, the Editor begs leave to call the attention of the Sheriff of London to the Police of Newgate, where Culprits confined for seditious practices have been even allowed to paint their rooms with the National colours of France, and to inscribe on their doors the words, "Citizen—*Palais Légale*." If, after all, it should be found necessary to retain imprisonment as one of the punishments for sedition, in its lightest shades, it should surely be administered by way of *solitary confinement*. This would in reality be a salutary punishment, and conduce to reformation. Even Mr. Erskine, though incapable of sedition, would shudder at the idea of being left to silence and reflection for six months.

Editor's Note.

is probably yet to come, when they have surmounted all the efforts of sophistry, and all the arts of false colouring, and when they are satisfied, after a diligent and impartial investigation, that the charge is fully established, and that it only remains for them to pronounce the awful Verdict of "Guilty"—If, upon retiring to consider of their Verdict, they happen to find among them one or two individuals infected with the *influenza* of the *Rights of Man*, it is then that their situation is most difficult and painful. They then see themselves reduced to the disagreeable alternative of either sacrificing the obligation of their oaths, or of engaging in an obstinate contest with men, who are pre-determined not to convict; and who are generally possessed, in an eminent degree, of qualities which fit them for such a conflict. Considering the great extent of the malady above mentioned, and the indefatigable industry with which those, who are under its influence, endeavour to worm themselves into every situation where they can serve their favourite cause, it is but too probable that such a mixture will be found in a Jury impannelled to try a charge of treasonable or seditious practices*. Sensible that

in

* To preserve the administration of Justice from so poisonous a mixture, the suggestions contained in the last Letter respecting the Freeholder's Book deserve consideration. To

in no other situation they can render such effectual service to that cause, they fail not, upon such occasions, to display the utmost zeal, fervour, and perseverance. No matter how strong the proofs—how aggravated the case—how large the majority for a conviction---all such considerations they set at defiance, and declare that they will rather perish in the contest, than consent to a Verdict of "Guilty."

The unanimity which the law requires, in the delivery of a verdict, affords, in such cases, but too favourable an occasion for perverseness and obstinacy to prevail over candour, moderation, and justice; and, unfortunately, the spirit, resolution, and perseverance of the well-disposed are generally unequal to the ardour and pertinacity of those, who are under the guidance of passion, or the influence of Party considerations. There is but one fair and equitable

those suggestions it may be proper to add an admonition to worthy and well-disposed Jurymen to make a point of attending the Court whenever they are summoned upon a charge of Sedition or Treason. The want of such attendance frequently occasions a deficiency of the Jurors returned upon the Pannel; which deficiency is generally supplied by persons of the same principles and views as the Prisoner; who, neglecting no opportunity of promoting their grand object, always throng the Court on such occasions, and present themselves eagerly to fill the office which honest and sober men are too solicitous to avoid.

rule

rule for the attainment of unanimity in any body of men, possessing equally the right of individual suffrage---namely, that the Minority should yield to the voice of the Majority. It is thus alone than even a smaller number than twelve persons can reasonably expect, even on ordinary occasions, to concur in will, or to act in concert; and unless this rule be applied to the deliberations of Juries, the necessity of an unanimous concurrence in their determination, will not only subject that mode of trial to the charge of extreme absurdity, but also render it absolutely incompatible with justice. In criminal cases, and particularly in capital ones, the feelings of a Jury will always be inclined so far to qualify this rule, as to require something more than a mere turn of the scale to produce a conviction, and a bare majority will ever be ready to surrender their opinion to the conscientious scruples of those, who may incline to a more merciful verdict. It would, indeed, have stamped a much greater degree of apparent perfection on the institution of Trial by Jury, if, instead of a *nominal* unanimity being a requisite quality in a verdict, the principle had been expressly established, that a majority, consisting of two-thirds, or three-fourths, should be sufficient for a conviction. But the good sense, moderation and humanity of the English character have supplied, in this case, the want of positive

regulation, by generally adopting, in practice, so rational a principle. Nor can a better proof be wanted, that a case is proper for conviction, than the willingness of eight or nine English Jurymen to convict.

But although the votaries for the new philosophy profess to maintain, as one of their fundamental doctrines, the right of majorities to decide on *all* questions whatever, (and even in those cases of social and political relations, where such a principle is incompatible with the existence of that sovereignty on the one hand, and of that subordination on the other, which are of the very essence of the connection), yet, when it suits their purpose, they are the first to violate this principle, by insisting that their own notions, projects and systems, shall prevail over the greatest superiority of numbers. They seem to think themselves exceptions to the rule which they lay down for the rest of the world; as if, by the aid of the new light, they were possessed of absolute infallibility, or, at least, of such superlative wisdom, as to entitle them to dictate to the whole human race, and to supersede every ancient establishment. Thus, when such persons find themselves (in however small a proportion) in a Jury, met to decide on an offence against the State, as such a case comes immediately within the compass of their
reforming

reforming or revolutionary zeal, they reckon as nothing the clear and decided opinion of nine or ten of their fellows, who think that the demands of justice can only be satisfied by a verdict of Guilty—and they expect the majority, however great, to conform to their pleasure, and to acquiesce in their determination to acquit. Nor is this perversity confined to the active abettors of the disorganizing system, or to those who seek for profit or personal consequence in a new order of things. When once the baneful contagion has seized the mind, the most respectable and opulent persons act as if they were reduced to the most desperate circumstances, or influenced by the basest designs. They can never see any guilt in conspiracies against the Government. If a criminal, charged with such practices, has but taken care to borrow the cloak of Reform, or to assume some other pretext of a specious and imposing nature, he is sure to find favour in their sight: nay, so far does the influence of this sympathizing spirit extend, that Sedition and Treason, in every form, are become sacred crimes, and must not be punished, even though they quit the wily and circuitous paths, discovered by modern practitioners, for the more direct and open road frequented by conspirators of ancient times. Of this a striking instance has recently occurred, where (it is said) the violence and obstinacy of two sectaries pre-

wailed over the sense and spirit of the rest of the Jury, by forcing an acquittal in a clear case of inartificial Treason of the old style, conducted according to ancient forms, and destitute of any of the subtleties and refinements of modern invention*.

It

* In the case here alluded to, the Prisoner was proved, beyond the possibility of contradiction, to have corresponded with the King's Enemies, and, in the course of that correspondence, to have given them, at their desire, the best information his industry and artifices could procure, of the internal state of the Country, in order to enable them to judge of the expediency of attempting an invasion. It was not disputed that he gave them true information and faithful advice; such information and advice as were calculated to preserve them, and which, in all probability, did preserve them from an enterprize, in which they must inevitably have experienced disappointment and defeat. In short, the charge was so fully and clearly established, that it was out of the power of ingenuity to devise any other defence than that he was induced, by the result of his enquiries respecting the state of the Country, and in faithful discharge of the trust he had undertaken, to dissuade them from their project of invasion—And although in so doing he rendered them a most important service—although the very same principle on which he acted would have led him to invite the Enemy to the British shores, if he could have held out to them a rational prospect of success, he was absolved from the charge of High Treason by a verdict, produced by the influence above described!

As the names of persons who fill a public character on important occasions cannot be too generally known, it is

It would, however, be impossible for this pernicious influence to gain such an ascendancy in the deliberations of Juries, were it not for the aid of a sentiment of false humanity, which is most artfully excited, and which alone could reconcile the majority of a Jury to the idea of acquitting a man, of whose *guilt* they were *convinced*.--- Thinking that their error may be excusable, if they err on the side of Mercy, they are thereby induced, after a short resistance, to surrender their own opinion to the captious opposition of one or two individuals. But, in yielding to such impressions, they lose sight of the nature of their situation; of the oath they have taken, to give a *true verdict according to the evidence*; and of the consequences which may ensue a departure from their engagement. It is not *their* province to exercise lenity and indulgence, but to administer justice.---Being satisfied, on fair grounds, of the guilt of the party, nothing can absolve them from the obligation of declaring that guilt; and

thought proper to subjoin a List of the Jury who acquitted Mr. Stone.

John Leader,	Thomas Burnett,
John Mayhew,	William Sumner,
John Hetherington,	John Lorkin,
Thomas Cole,	Peter Taylor,
Charles Minier,	William West,
Daniel Dyson,	Isaac Dimsdale.

if they suffer themselves to be prevailed on, by any consideration whatever, to pronounce a different verdict, they infringe their oaths, betray the solemn trust reposed in them, and violate the most sacred duties of morality and religion. The quality of Mercy is the prerogative of the Crown; and it is one of the numerous excellencies of the Monarchical Constitution of this Country, that this amiable prerogative is sure to be exercised, whenever its interposition would not be productive of public mischief. But when Juries suffer themselves to be influenced by such motives, they usurp a function which does not belong to them; they sacrifice the fundamental principles of that admirable institution, of which they form a part; and they render themselves morally responsible for the consequences. Besides, they most grossly deceive themselves, when they imagine, that in acquitting the Guilty, they yield to the dictates of Humanity. It is a false, pernicious, and cruel humanity which they indulge. They are chargeable with the most complicated, extensive, and barbarous *Inhumanity*. In saving the Guilty, they punish the Innocent. In a case of High Treason, particularly, they decide between the Prisoner and the Country at large; and, for aught they know, the fate of each is equally in their hands. When, in such a case, they spare a life which is forfeited to the Laws, they endanger the
lives

lives of millions—the safety of their Sovereign—the security of the State—and the existence of the Constitution. The Acquittals at the Old Bailey led, by a natural and obvious progression, to the shocking outrage that exposed the Kingdom to the greatest of misfortunes, and that might have been productive of calamities which would defy the utmost stretch of imagination; and scarcely was the acquittal of STONE pronounced, when another atrocity of the like nature furnished an additional proof that the daring and licentious spirit, which had been excited among the lower orders, could not be repressed without the aid of example—whereby the multitude should be convinced, upon the evidence of their own senses, that they are subject to the Laws, and that crime cannot hope for impunity.

It behoves Jurymen, therefore, to reflect very seriously on the nature and importance of their situation, and to resolve on a firm and resolute discharge of their duty; suffering themselves neither to be seduced by the arts, intimidated by the threats, nor vanquished by the pertinacity of those who would prevail on them to return a Verdict which is not dictated by their consciences.— Shall a large majority of respectable and conscientious men, whose only wish it is to administer

ster impartial justice, become the mouth-piece of
 one or two fanatical Reformers, who can discover
 no guilt in any attempt against the established
 Government? or, of a like number of determined
 Jacobins, who seek to accomplish the destruction
 of all legitimate authority? In resisting the ob-
 stinacy of such characters, they must expect to
 undergo some personal inconvenience.—The con-
 test may be arduous and the struggle long. But it
 is a contest with Licentiousness and Anarchy—it
 is a struggle for Civil Liberty, Order, and the
 Constitution. They owe it to God and their con-
 sciences—to their families and their Country—to
 the present age, and to posterity, to persevere.—
 If, however, they see at length no prospect of
 being able to vanquish the inflexible stubbornness
 of the perverse few, and there be found among
 the larger number some whose health will not
 admit of a farther conflict, (an inconvenience to
 which the majority are most exposed), there is
 still one method left by which they may discharge
 their consciences, lessen the evil they cannot
 entirely prevent, and convince the world that
 they have exerted themselves to the utmost in
 the performance of a painful duty. Instead of re-
 turning an unexplained verdict, as in such cases
 they are apt to do, let them come into Court
 and state the real fact—let them disclose the con-
 test

test in which they have been engaged, and point out the individuals who have obstructed the progress of Justice. By such explanations they would deprive the Factious of that ground for boasting, and that occasion for triumph, which an unqualified acquittal ever affords them, and they would render the Patrons of Sedition less desirous of thrusting themselves upon Juries, by convincing them, that although they may succeed in frustrating the claims of Justice, they will be themselves subjected to that responsibility of public opinion, which should ever attend the exercise of a public duty; while the acquittal itself, so explained, would have, in a great degree, the effect of a conviction, by exposing the criminal to just and general detestation, which the impunity of his crime would serve only to aggravate.

There cannot be a greater error than to suppose that Jurymen are not at full liberty to disclose what passes among themselves.—Every one of them is perfectly free to make such disclosure, either openly in Court, or afterwards to the Public, in whatever manner his discretion may suggest.—Petit Juries are not, like Grand Juries, sworn to secrecy. If they retire, it is only that they may deliberate without interruption, and apart from all influence.—But they are not sub-

jected,

jected, either by the nature of their office, or the terms of their engagement, to any obligation of concealment. Grand Juries are bound by oath to "keep the King's council, their own, and their fellows:" because a disclosure of what occurs in that early stage of the proceedings might defeat the ends of Justice; but, as the decision of the Petit Jury is subsequent to the publication of all the evidence of the case, no possible inconvenience can result from the particulars of their deliberation being made known to all the world: nay, it is even a duty incumbent upon them, to expose the improper conduct of any of their brethren, particularly if such conduct has had any influence upon the Verdict. In civil cases, and also in criminal ones where a conviction has taken place, injustice may, in consequence of such exposure, be remedied by a new trial: and, in all cases, it would be productive of public advantage and general security, were Jurymen to act under the impression, that, although for a time they are secluded from the eye of the world, the circumstances of their behaviour, while in that state of retirement, will, if deserving of notice, be brought before the tribunal of the Public.

As an inducement to Juries to listen to these admonitions, let them remember that in cases of
a se-

a seditious or treasonable nature, they are not merely the dispensers of the law, but the guardians of the Constitution. If the laws, which are made for the security of Government, be rendered inefficient, for want of energy in those who are entrusted with their execution, the entire administration of justice—the existence of Trial by Jury itself—all the safeguards of persons and property—and all the rights and liberties of Englishmen, must give way to that disorganizing system, which tends to the total subversion of civilized society. If Juries will not do their part towards carrying those laws into effect, they will render the institution of Trial by Jury a curse instead of a blessing. The mischief they will produce will infinitely more than counterbalance all the good they have ever done, or can ever do. They will crown with success the machinations of the Disaffected, and render the cause of Anarchy triumphant.

The CONSTITUTION—that venerable fabric of British glory and prosperity—is guarded on all sides against the encroachments of power; it is secure against the inroads of influence—it has nothing to fear from its open and avowed enemies, unless their attacks be favoured by the treachery or supineness of those who are entrusted with its defence.

defence. Should it ever perish, its destruction will be effected by the means provided for its preservation.

THE GHOST OF ALFRED.

June 3, 1796.

FINIS.

